EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

HEARINGS

BEFORE THE

COMMITTEE ON INTERNATIONAL RELATIONS HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

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CONTENTS

WITNESSES

MATERIAL SUBMITTED FOR THE RECORD

APPENDIX

EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

TUESDAY, JUNE 8, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C.

The committee met at 10 a.m., in room 2172, Rayburn House Office Building, Hon. Thomas E. Morgan (chairman of the committee) presiding.

Chairman MORGAN. The committee will please come to order.

Before we begin today's hearing, the Chair would like to call to the members' attention the material before them concerning a report the committee is required to submit to the House in connection with the Budget Act.

The purpose of the report is to assist the House in budget scorekeeping. Therefore, it should be filed as soon as possible.

This report deals only with budget allocations based on permanent authorizations—namely, trust funds, pension funds, and the military sales revolving fund.

This report does not affect our budget ceilings for annual authorizations.

It is simply a scorekeeping device for budget items which are outside the annual authorization and appropriation process.

The Chair would appreciate it if the members would take the material with them today and review it so that we can order the report filed during tomorrow's meeting.

Today is the opening of a series of hearings on the operations of the Export Administration Act of 1969.

Under the committee reforms of 1974, the Committee on International Relations received jurisdiction over export controls, the main legislative authority for which is the Export Administration Act.

These hearings are being held because that act expires on September 30 of this year and because of various concerns over the implementation of the fact, particularly as it relates to foreign boycotts and high-technology export licensing.

I would call to the members' attention the publication dated June 7 which is before them. This is a study which the committee requested of the Congressional Research Service of the Library of Congress. It describes the export licensing process and the functions of various Government offices and agencies in that process.

During these 6 days of hearings, we will hear both from governmental and private sector witnesses.

Today, we will hear from representatives from the Department of State and the Department of Defense.

We will hear first from the Honorable William P. Clements, Deputy Secretary of Defense. Mr. Clements is accompanied by Roger Shields, Deputy Assistant Secretary for International Economic Affairs; and by Dr. Robert N. Parker, the Principal Deputy Director for Research and Engineering.

The second witness will be the Honorable Joseph Greenwald, Assistant Secretary of State for Economic and Business Affairs.

Following Mr. Greenwald's statement, the meeting will be open to questioning from the committee members.

Gentlemen, we are pleased to have you here.

Secretary Clements, you may commence, either by reading your statement or by summarizing it.

STATEMENT OF HON. WILLIAM P. CLEMENTS, DEPUTY SECRETARY OF DEFENSE

Mr. CLEMENTS. Thank you, Mr. Chairman.

I would like for the record to be correct and for you to be aware Mr. Parker didn't come with me; Dr. Currie did, who is the Director of Defense Research and Engineering. He is here in place of Dr. Parker.

Mr. Chairman, and distinguished members of the committee, I am pleased to have the opportunity to appear before the Committee on International Relations to outline the role of the Department of Defense in the implementation of export controls under the provisions of the Export Administration Act of 1969 and related statutes, and to discuss the significance of that legislation to our defense.

At the outset, let me say that the Department of Defense is not opposed to peaceful trade nor to the expansion of commercial and economic ties with countries in the Communist world. Our sole concern and care is for the national security aspects of this traffic.

As you know, the responsibilities of the Secretary of Defense in export control matters, which have long been implicit in U.S. export legislation, were explicitly set forth in the Export Administration Amendments of 1974 which went into effect on October 29 of that year. Section 4(h) authorizes the Secretary of Defense to review any proposed export of goods or technology to a controlled country and to determine whether the export of such goods or technology will significantly increase the military capability of such country.

In addition, under subsection (2) the Secretary of Defense is required to determine, in consultation with the Export Control Office to which licensing requests are made, the types and categories of transactions which should be reviewed by him.

As the Department most directly concerned with the impact of technology transfer on national security, we have fulfilled our responsibilities in this area with considerable effectiveness.

INDUSTRY CRITICISM OF EXPORT CONTROLS

However, we are aware of criticism from industrial and even some governmental sources concerning the existing system of export con-

trols, and we have taken a fresh look at ways by which the present system may be improved, toward tightening controls over export of key technologies, and relaxing controls over nonstrategic technology wherever our implementation study may find it appropriate and thus stimulating greater market opportunity for our industries.

The Defense Science Board tax force report on export of United States technology, conducted over the past 2 years, represents this fresh look. I fully agree with its major thrust and we are now studying the report in detail to determine the degree of implementation. I will elaborate on this effort shortly.

The underlying concern we have in all cases is whether a commodity purchased for a presumably peaceful end use, is likely to be diverted to a military purpose and, if so, how detrimental to our security that diversion would be.

THE U.S.S.R. AND EXPORT REALITIES

It is at this point in the process that we are confronted with a number of inescapable realities which outside critics tend to ignore. In the first place, there is the problem of uncertainty. Our knowledge of what goes on in the Soviet Union is not as precise or complete as we could wish. Consequently, in all of our judgments about the likely end use of a given strategic item there is room for error.

Recognizing this fact, a second reality is that the potential cost to the United States of a mistaken judgment varies considerably, depending on the direction in which it is made.

If, for example, we err on the side of being too restrictive, whatever the impact on the prospective vendor, the loss to the U.S. economy cannot in any case be very great for the simple reason that factors other than export controls on strategic items—such as a Soviet shortage of hard currency—impose the significant limits on increased U.S. trade with the Soviets.

If, on the other hand, we should err on the side of relaxing controls in a way which enhanced Soviet strategic capabilities, the price in subsequently increased defense costs and greater security risks could be very large.

A third reality is that errors made on the side of being too restrictive can be easily and instantly corrected whenever the error is discovered. All we have to do is reverse our position and there will be no resistance to the change.

By contrast, as experience has shown, particularly with international controls, once an item has been decontrolled, even if in error, it is impossible to get it reembargoed.

A fourth reality is that asking how much an individual export will adversely affect our security is the wrong question.

It is fanciful to suggest that one strategic commodity could have overwhelming importance by itself. Indeed, we would be prepared to stipulate that there is probably not an item on the embargo list which, if exported in one isolated transaction to the Soviet Union and used by them for military purposes, would, by itself, represent a disaster for our national security.

But in the world of export control, where every release is seized upon by other vendors or by other countries as a precedent for seek-

ing equivalent releases, there is no such thing as an isolated case any more than there is an isolated stone in a dike.

Theoretically, every transaction must be dealt with on its merits; but the cumulative impact of a number of transactions must also be weighed and, as we consider in each case those transactions which have preceded it, so we must also concern ourselves with those consequences which, based on experience, we know are certain to follow.

All of these problems are especially severe where technology transfers are concerned.

ESTIMATING THE POTENTIAL IMPACTS OF EXPORTS

To estimate the potential impact of an export of technology is much more difficult than to assess the importance of exporting a finished product. Where a piece of hardware is concerned, we have a fair chance, but by no means are assured of determining that it went to its intended destination.

Should diversion be detected or likely, we can reduce its value to some extent by shutting off follow-on spares, and we can exercise the additional sanction of refusing to make further shipments of similar equipment.

Even if we occasionally judge incorrectly, the damage to our security tends to be somewhat limited if only because machines and equipment have a finite utility and a finite useful life. This is not so with technology. We cannot be assured of the uses to which its end products will be put; we cannot recall it; nor is it necessarily a wasting asset.

And we must recognize that modern products of technology in themselves constitute disclosure to a degree of the parent technology, when made available to very competent and eager scientists and industrialists of Communist nations.

REPORT OF THE DEFENSE SCIENCE BOARD TASK FORCE

It is against this background that the recent report by the Defense Science Board task force on export of U.S. technology is important.

First, let me say that I fully agree with the primary recommendations of the report which we see as follows:

One, the control of design and manufacturing know-how is absolutely vital to the maintenance of U.S. technological superiority and continued comparative qualitative superiority in deployed weaponry.

Two, for the long perspective, beyond the limitations of current laws, regulations, and practice, a fresh approach to controlling technology exports is overdue. This perspective should focus on technology.

It would be premature for me to comment on the desirability or feasibility of each of the 25 recommendations contained in the report pending the completion of an ongoing implementation study which I shall briefly describe.

Since Mr. Robert N. Parker's March 30 testimony, we have now established a plan of attack to broadly implement the main thrusts of the Defense Science Board report. These focus on:

(1) The identification of critical technologies and products;

(2) The assessment of the active mechanisms of technology transfer;

(3) The development of simplified criteria for product control; and

(4) The feasibility and desirability of new administrative procedures or legislation for streamlining the existing export control system.

To accomplish the above, we have set up a steering group under the leadership of Dr. Malcolm Currie, Director of Defense Research and Engineering, and three working groups—Net Techno-Military Assessment, Technology Base, and Administration of Export Controls.

In addition to the broad utilization of Department of Defense technical personnel, we have also enlisted the participation of the intelligence services. We are presently in the process of expanding the effort and membership to the interagency level because of the critical multiagency nature of the problem—particularly the Department of Commerce.

WORK CLOSELY WITH THE STATE DEPARTMENT

We need to work closely with the State Department in the assessment of Defense Service Board recommendations with reference to COCOM. Further, the technical community must be squarely "in the loop" on these issues.

Because of the complexity of the problem, we envision that by September we should have a good indication of the need for any major administration changes or for the need of new legislation.

In view of the rapid change of technology, we foresee the need for continuous review of technologies in order to identify revolutionary advances, and we shall propose a mechanism for accomplishing this objective.

We will fully cooperate with the Departments of State and Commerce in improving the efficiency as well as the effectiveness of the system of export controls. We believe this can be done without undue restriction on the flow of trade, imposition of excessive regulation of U.S. industry or impairment of the traditional freedom of scientific exchange.

Mr. Chairman, to the extent that we and our allies maintain careful controls over the export to the Soviets and their allies of goods and technology of military significance, we are retarding the growth of the Warsaw Pact and PRC military capabilities, contributing to the success of our deterrent strategy, and reducing the expenditures we must make for our defense.

Thank you very much.

Chairman MORGAN. Thank you, Mr. Secretary.

Mr. Greenwald, you may proceed.

STATEMENT OF HON. JOSEPH A. GREENWALD, ASSISTANT SECRETARY OF STATE FOR ECONOMIC AND BUSINESS AFFAIRS

Mr. GREENWALD. Mr. Chairman, if it is agreeable with you, I will summarize my text.

Chairman MORGAN. That will be fine, and your complete statement will appear in the record.

Mr. GREENWALD. On the question of the boycott issue, I would like to read the statement, if that is agreeable.

The questions you asked concerning the State Department's role have to do with the participation in the licensing process and our

responsibilities with respect to the Coordinating Committee or COCOM, the multilateral group where participating members develop common policies on strategic trade controls.

Our participation in licensing in the Government is mainly carried out through interdepartmental committees under law and Executive order. We participate in the formulation of policies on export control in these committees, mainly the ones set up by the Department of Commerce.

Our purpose, our main objective and responsibility in this participation is to assure that the decisions made are consistent with our overall foreign policy objectives and the position we take in the international forum.

This is the broad outline of the State Department's participation in the interdepartmental process.

RELATION OF DEPARTMENTS OF STATE AND COMMERCE

Now, the Department of State and our missions overseas also provide operational assistance to the Department of Commerce in particular in carrying out the purpose of the Export Administration Act. This is the sort of thing you might put under the heading of enforcement, information on compliance and checking on the use to be made of exports from the United States.

Through these missions we also carry on contacts or bilateral negotiations with governments as may be necessary to insure against violations of our export controls or to obtain cooperation with respect to particular problems.

Under the Battle Act, we have the responsibility for applying an embargo on the export to Communist countries of arms and items of primary strategic significance used in the production of arms and seeking the cooperation of other countries in such an embargo.

We work through a cooperative committee which goes under the heading of COCOM. This responsibility under the Battle Act has been delegated by the President to the Secretary of State, and this is our main job in the field of export control.

We have a resident delegation that participates in COCOM, and we have an Economic Defense Advisory Committee organization within the Department of State to carry it out.

ACTIVITIES OF COCOM

COCOM is a voluntary organization established in 1950 which tries to carry out these cooperative activities and embargoes through discussion and agreement, including agreement on lists of controlled commodities.

The committee meets regularly to consider changes in the list and the procedures and to deal with exceptions. These decisions are, in effect, recommendations to governments although there has been a tradition of unanimous agreement on all the final recommendations and by and large each member State has, through the application of its own national policy, followed the recommendations of COCOM.

However, there is no legal obligation and no basic surrender of sovereignty. These are, as I say, the basic elements of the COCOM

operation, the lists and the exceptions process. Exception cases have grown appreciably in recent years consistent with the growth of trade with the Communist countries. In 1975, for example, there were 1,798 cases as compared to 1,380 in 1974. The U.S. share of the exceptions has increased from 41 percent to 44 percent in 1975.

I think despite the formal legal requirement for unanimity, the record in COCOM of following the recommendations of exporting governments has been pretty good and we have had, I think, an effective instrument over its 26-year history contributing to the security of the free world through an effective export control system on a multilateral basis.

OFFICE OF MUNITIONS CONTROL

There is also a responsibility in the Department of State under the Mutual Security Act of 1954 which has to do with the control to all destinations of arms, ammunition, and implements of war, related technical data and manufacturers licensing agreements. This is under the Office of Munitions Control in the Department of State.

I would just like to refer briefly to the report of the Defense Science Board on export control of U.S. technology that Secretary Clements discussed at some length. We share his view that it represents a valuable new look at many of the key issues with respect to export control. It concentrates on the priority issues of strategic technologies. We, too, have been studying this report and will continue to participate in the preliminary agency consideration of its implications. Our particular interest, of course, is how the implementation of the report might apply to the listing of items and technology control under the Battle Act and under COCOM.

In your letter of May 17, you also asked about the General Accounting Office's study on the Government's role in the East-West trade problems and certain other issues. This study includes a number of specific recommendations, and I think you have the response we have given on each of those that apply to the Department of State.

They have been sent to you together with the comments of other departments, and I think they were given to the committee this morning.

ANTIBOYCOTT PROPOSALS

Mr. Chairman, I would like to address myself to another subject mentioned in your letter, and that is the question of congressional proposals for legislative response to the Arab boycott of Israel.

U.S. policy on the Arab boycott is clear and unequivocal. We strongly oppose the boycott of friendly countries, including the boycott of Israel. We have made this position clear to foreign governments and to the U.S. business community. We are the only country, other than Israel, to take a strong position in opposing the boycott of Israel. Since the President's major policy statement on November 20 on this issue, the administration has put into effect a number of measures carrying out this policy of opposition to boycotts of friendly countries.

Specifically, we have ended trade promotion activities which might have been viewed as condoning boycott practices; we have widely pub-

licized our opposition to the boycott of Israel and requested and encouraged U.S. firms to refuse to act in furtherance of it; we have expanded reporting requirements under the Export Administration Act to include service organizations as well as goods exporters and to require reporting of responses to boycott requests of foreign governments; we have pointed out that refusal-to-deal agreements implemented by U.S. firms in U.S. commerce pursuant to foreign boycotts raise serious antitrust questions; the Justice Department has initiated a suit on this basis under the authority of the Sherman Antitrust Act and has a continuing investigation in this area.

A growing number of U.S. firms are actively seeking ways to do business with both Israel and the Arab States free of involvement with boycott practices. We believe most U.S. firms continue to take advantage of the important trade opportunities which exist in the Israeli and the Arab country markets. We actively encourage them to do so, consistent with our policies.

The President's November 20 statement was also responsive to concerns that boycott activities might lead to discriminatory actions based on religion or on ethnic background. The Export Administration Act regulations have been revised to prohibit U.S. exporters and related service organizations from answering or complying in any way with boycott requests that would cause discrimination against U.S. citizens or firms on the basis of race, color, religion, sex, or national origin in export transactions. Pursuant to the President's directive, individual agencies have acted to assure that antidiscrimination policies are effectively and fully implemented by each agency. There have been only a handful of discriminatory requests, mainly involving private practices, out of more than 50,000 boycott requests to U.S. firms reported to the Department of Commerce from 1970 through November 1975. As a general rule, we have received assurances that these are unauthorized exceptions and that it is not the policy of the governments applying the boycott of Israel to discriminate in business transactions on the basis of race or religion. High-ranking Arab Government representatives have emphasized this with both public and private assurances that religion or creed bears no relationship to the Arab boycott.

The administration shares congressional and public concerns that the impact of foreign boycotts on U.S. firms and on friendly countries be minimized. Action to this end, however, should be designed to achieve realistic objectives and to avoid counter-productive reaction. Continued quiet diplomacy and the efforts of individual firms offer the best chance at this time of lessening the impact of the boycott on U.S. firms. This approach has had some success over the past year, as is evident in the modification of some boycott procedures which had been in effect over a long period of time. We believe that further practical progress is likely.

EFFECT OF ANTIBOYCOTT PROPOSALS

However, it is also clear that the Arab governments are not prepared to drop the boycott altogether except in the context of an overall peace settlement. Proposals at this time for stronger antiboycott

legislation are very likely to be seen as confrontational. We have experienced situations in the past where excessive pressure has produced a backlash which undercut progress being made through diplomatic endeavors. Such confrontation would be harmful to our overall economic and political interests in the Middle East—the most important of which is our desire to promote progress toward a peaceful settlement of the Arab-Israeli dispute.

Expansion of U.S. economic relations with Israel and with the Arab States is an important objective in terms of our own concerns for jobs and exports. In 1975, our exports to Arab countries which adhered to the boycott of Israel exceeded $4.4 billion, accounting for some 200,000 to 300,000 American jobs. The Secretary of Commerce will be better able to spell out the importance of our exports and other broad economic interests in the area.

Continued improvement in these economic relations also serves to lessen the reliance of such countries as Egypt, Iraq, and Syria on Communist country technology and supplies and facilitates our efforts to play an important role in promoting further progress in Arab-Israeli negotiations. Legislation which would have the practical result of diverting business to the Soviet Union or to such competitors as Japan, Canada, or Europe will weaken the broad based cooperative relationships which enable us to play a constructive role with all of the parties to the Arab-Israeli dispute.

Ultimately, a solution to the boycott issue like solutions to the issues of territory, security, sovereignty, and recognition which characterize the Arab-Israeli dispute must be found in the context of making further progress toward a peaceful settlement acceptable to the parties directly concerned.

[The prepared statement of Mr. Greenwald follows:]

PREPARED STATEMENT OF JOSEPH A. GREENWALD, ASSISTANT SECRETARY OF STATE FOR ECONOMIC AND BUSINESS AFFAIRS

Mr. Chairman, in your letter of May 17 asking that I testify before this Committee you requested that I describe the Department of State's role both in the U.S. export licensing process and in the Coordinating Committee, or COCOM, the multilateral group where the fifteen member countries develop common policies on strategic trade controls.

The activities and duties of the Department of State in the export control area are based in part on the general responsibility of the Secretary of State for advising the President on the conduct of foreign policy and in part on the specific provisions in certain statutes—notably the Export Administration Act, the Mutual Defense Assistance Control Act (or Battle Act), and the Mutual Security Act of 1954.

The first of these Acts—the Export Administration Act—is the governing statute with respect to United States export controls and is the particular subject of these hearings. That Act in its present form includes as one of its policy objectives the use of export controls "to the extent necessary to further significantly the foreign policy of the United States" and provides explicitly for consultation with the Department of State in connection with that objective, as well as with the other policy purposes of the Act—notably protection of the national security and protection against excessive drain of scarce materials.

Accordingly, the Department of State participates in the formulation of U.S. policy and decisionmaking with respect to export controls in the various committees set up for this purpose by the Department of Commerce. The principal of these is the Advisory Committee on Export Policy (ACEP) chaired by the Department of Commerce; its working level committee, the Operating Committee; and its Cabinet-level body—the Export Administration Review Board.

When policy issues go beyond that Cabinet-level Review Board, the Department of State participates in the National Security Council or whatever other White House review procedure may be involved.

In these committee activities the Department of State's objective is to ensure that the decisions made are consistent with the overall foreign policy objectives of the United States and with U.S. positions taken in COCOM. The Department of State also participates actively in the work of the East-West Foreign Trade Board and its working group, both chaired by Treasury, in monitoring the flow of trade and technology to the non-market economy countries in accordance with Section 411 of the Trade Act of 1974.

The Department of State and U.S. Foreign Service posts also provide operational assistance to Commerce in carrying out the purposes of the Export Administration Act. This includes particularly providing information on possible consignees of U.S. goods and equipment and checking on the use to be made of exports from the United States. These functions may be carried out before U.S. export licensing takes place or as a post-licensing check to be certain that diversion does not occur. The Department of State through its mission abroad also carries out such contacts or bilateral negotiations with other governments as may be appropriate to ensure against violation of U.S. export controls or to obtain cooperation with respect to particular problems.

The second Act I referred to earlier—the Battle Act—sets forth the policy of applying an embargo on the export to Communist countries of arms and items of primary strategic significance used in the production of arms and seeking the cooperation of other countries in such an embargo. The responsibility for carrying out the policy of the Battle Act has been delegated by the President to the Secretary of State. Accordingly, the Department of Sate is responsible, in consultation with other executive agencies, for determining the items requiring control under the Battle Act and for seeking the cooperation of other countries.

This is done through U.S. participation in the multilateral committee for coordinating export control policies—the Coordinating Committee, known simply as COCOM. We maintain a resident delegation to COCOM in Paris, and provide, with the cooperation of other Washington agencies, the technical support that is necessary for list reviews or other specialized meetings.

By the Secretary's redelegation I have responsibility for administration of the Battle Act and for U.S. participation in COCOM. Carrying out these responsibilities involves a coordinated effort by the responsible executive departments and agencies that we assure through an Economic Defense Advisory Committee organization under my chairmanship.

COCOM is a voluntary organization which, as its name indicates, coordinates the policies of independent governments. It was established in 1950 and its membership consists of 15 countries—the NATO countries minus Iceland, plus Japan. All actions and decisions by COCOM are confidential by agreement, including the lists of controlled commodities. The committee meets regularly in Paris to consider changes in its lists and procedures and to pass on requests for exceptions to the embargo made by member countries.

Actions in COCOM are in effect recommendations to member governments, and they become effective only as they are carried out by member governments through their individual export control programs under their own national laws and regulations. In the case of the United States, this is accomplished through the Export Administration Act and the regulations thereunder.

A basic rule of COCOM from the outset has been that there should be unanimous agreement on all COCOM final recommendations. A COCOM decision therefore means in effect that each member country has decided under its own laws and policies to embargo an identical list of items, but this is in the case of each country a unilateral decision; there is no legal obligation to embargo the items, and no surrender of sovereignty.

COCOM maintains three lists of controlled commodities: List I consists of military-related items as well as technology and equipment for their manufacture. The other lists are self-descriptive: A Munitions List and an Atomic Energy List. Although these lists are subject to constant review by the Committee, the practice is to have a review encompassing a number of items every two or three years.

Although all countries agree to control the items on the lists, provision is made in the procedures of the Committee to allow shipments for civil end uses under special exceptions policy, because the controlled items often have acceptable civilian as well as military uses. For such an exception to be made both the civil

end use and end user must be known and there must be minimal risk of diversion to a strategic or military use.

With the growth of trade with the Communist countries and their increasing interest in high technology items, the number of exceptions cases has grown appreciably in recent years. Thus in 1975 there were 1,798 cases submitted to the Committee compared with 1,380 cases in 1974. The U.S. share has also increased from 41 percent in 1974 to 44 percent in 1975.

In the case of actions on exceptions cases, while the rule of unanimity applies, there is not in reality a "veto" power; the action of COCOM constitutes a recommendation to the exporting government. Although governments normally follow such recommendations, they do not invariably do so, if they feel their national interests are deeply enough involved.

I believe that if we were to look at COCOM objectively as it has operated over its 26 year history we would conclude that it has been an effective instrument in contributing to the security of the Free World. In some cases member countries have taken actions that were not acceptable to other member countries but this must be expected in an organization of sovereign states which can only recommend specific actions to its members.

The third statute to which I referred at the outset is the Mutual Security Act of 1954. This Act provides the authority under which the Secretary of State maintains controls to all destinations over the export of arms, ammunition and implements of war and related technical data and manufacturing license agreements. This function is carried out through the Office of Munitions Control in the Department of State.

In your letter of May 17, Mr. Chairman, you also said that you would be interested in the Department of State's views on certain other issues. One of these related to various congressional proposals for a legislative response to the Arab boycott of Israel. I would like to comment briefly on that question, and on the problems involved.

U.S. policy on the Arab boycott is clear and unequivocal. We strongly oppose the boycott of friendly countries, including the boycott of Israel. We have made this position clear to foreign governments and to the U.S. business community. We are the only country (other than Israel) to take a strong position in opposing the boycott of Israel. Since the President's major policy statement on November 20 on this issue, the administration has put into effect a number of measures carrying out this policy of opposition to boycotts of friendly countries.

Specifically, we have ended trade promotion activities which might have been viewed as condoning boycott practices; we have widely publicized our opposition to the boycott of Israel and requested and encouraged U.S. firms to refuse to act in furtherance of it; we have expanded reporting requirements under the Export Administration Act to include service organizations as well as goods exporters and to require reporting of responses to boycott requests of foreign governments; we have pointed out that refusal-to-deal agreements implemented by U.S. firms in U.S. commerce pursuant to foreign boycotts raise serious antitrust questions; the Justice Department has initiated a suit on this basis under the authority of the Sherman Antitrust Act and has a continuing investigation in this area.

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The Administration shares congressional and public concerns that the impact of foreign boycotts on U.S. firms and on friendly countries be minimized. Action to this end, however, should be designed to achieve realistic objectives and to avoid counterproductive reaction. Continued quiet diplomacy and the efforts of individual firms offer the best chance at this time of lessening the impact of the boycott on U.S. firms. This approach has had some success over the past year, as is evident in the modification of some boycott procedures which had been in effect over a long period of time. We believe that further practical progress is likely.

However, it is also clear that the Arab governments are not prepared to drop the boycott altogether except in the context of an overall peace settlement. Proposals at this time for stronger anti-boycott legislation are very likely to be seen as confrontational. We have experienced situations in the past where excessive pressure has produced a backlash which undercut progress being made through diplomatic endeavors, Such confrontation would be harmful to our overall economic and political interests in the Middle East—the most important of which is our desire to promote progress toward a peaceful settlement of the Arab-Israeli dispute.

Expansion of U.S. economic relations with Israel and with the Arab states is an important objective in terms of our own concerns for jobs and exports. Continued improvement in these relations also serves to lessen the reliance of such countries as Egypt, Iraq, and Syria on Communist country technology and supplies and facilitates our efforts to play an important role in promoting further progress in Arab-Israeli negotiations. Legislation which would have the practical result of diverting business to the Soviet Union or to such competitors as Japan, Canada, or Europe will weaken the broad based cooperative relationships which enable us to play a constructive role with all of the parties to the Arab-Israeli dispute.

Ultimately, a solution to the boycott issue like solutions to the issues of territory, security, sovereignty, and recognition which characterize the Arab-Israeli dispute must be found in the context of making further progress toward a peaceful settlement acceptable to the parties directly concerned.

With respect to the other issues mentioned in the Chairman's letter, I think it is a little early to comment definitively on the "Report of the Defense Science Board Task Force on Export Control of U.S. Technology." The Report certainly represents a valuable new look at many of the key issues with respect to export controls. It concentrates particularly on what is involved in the priority issue of maintaining the U.S. lead in strategic technologies. I understand the Department of Defense is engaged in reviewing the report, particularly what is involved in identifying the critical technologies. We also have been studying the report and have participated in some preliminary interagency consideration of its implications.

We of course have an interest in how the implementation of the Report might apply to the listing of items and technology for control under the Battle Act and COCOM.

You also asked me to comment on the General Accounting Office study on "The Government's Role in East-West Trade Problems and Issues". This very broad study includes a number of specific recommendations. We have responded to each of those having applicability to the Department of State, and I would be glad to comment on any of those that might be of interest to the Committee. Our responses have been sent to the Congress together with comments from other departments and may be supplied to the Committee if they are not already available to you.

This concludes my prepared testimony, and I would be happy to respond to your questions.

SOURCE OF ADVICE ON EXPORT CONTROLS

Chairman MORGAN. Thank you, Mr. Secretary.

Mr. Clements, I will ask you both the same question. You can answer first, and then I would like to hear Secretary Greenwald's answer to the same question.

Mr. Clements and Mr. Greenwald, to where do your respective departments turn for expert advice on particular items, to your own personnel, outside consultants, to industry, or whom?

Mr. CLEMENTS. To all three. When these matters come up, Mr. Chairman, and if there is other than an obvious answer which we would know internally through our own resources, either through the ISA group or through our installations and logistics and material group, or through our technical capabilities through D.D.R. & E., Dr. Currie's group.

If it is not an easy, quick answer through those sources, then we go to industry itself, to consultants or to the other outside sources for assistance and advice and counsel with respect to either the technology involved and/or the end product involved.

Mr. GREENWALD. Mr. Chairman, the Department of State has no independent capability for judging the technical and strategic importance of particular items.

So, by and large, we depend on the other agencies, such as the Department of Defense, intelligence agencies and the Department of Commerce. We participate in the process but by and large our own participation is more in the policy context or the others I mentioned related to COCOM rather than in trying to establish our independent judgment on the strategic importance of a particular item or technology.

GAO REPORT ON EAST-WEST TRADE POLICIES

Chairman MORGAN. Now the GAO report on East-West trade policies suggests that two intergovernmental committees which coordinate export control policies—the Advisory Committee on Export Policy and the Economic Defense Advisory Committee—are redundant and cause a lot of delays in the export licensing process.

Why can't these two committees be combined into one unit?

Mr. CLEMENTS. Mr. Chairman, I have not myself directly addressed that question. I, offhand, don't have an opinion about it. I have not studied the issue. Perhaps Mr. Shields would have a comment.

The issue of the length of time that it takes to process one of these applications or an issue is very important and we have had in the past delay that we considered excessive.

But, on the other hand, some of them seem to flow very quickly. I do feel that process can be improved significantly.

DOD REPORT ON HIGH-TECHNOLOGY EXPORTS

Chairman MORGAN. Secretary Greenwald, what is the Department of State's position on the DOD report? What does the Department favor?

Mr. GREENWALD. The DOD report on the technology?

Chairman MORGAN. Yes.

Mr. GREENWALD. As I said in my opening statement, it is perhaps premature for us to take a formal position on it. We are participating in the study, as I think other agencies in the Government are. Once the full implications of the report and conclusions can be drawn, then we will have to see how that applies to our international efforts to have an effective system of export controls throughout the Western World.

THE STEVENSON ANTIBOYCOTT AMENDMENT

Chairman MORGAN. Secretary Greenwald, I notice in your statement you mention the Stevenson antiboycott amendment. How does the Department feel about the so-called Stevenson amendment?

Mr. GREENWALD. This is in connection with the boycott?

Chairman MORGAN. Yes.

Mr. GREENWALD. The position that the Department of State, and I think the administration, has taken is that at this time it is neither desirable nor necessary to have legislative action in connection with the boycott.

More progress can be made, as I suggested, through the diplomatic efforts that we have been pursuing and will continue to pursue actively.

Chairman MORGAN. As we proceed in these hearings, I am sure we will receive testimony, Mr. Secretary, supporting boycott. I imagine that if we survive with only that boycott amendment on the floor, we will be very fortunate.

Mr. GREENWALD. We would be very pleased if that were the outcome.

Chairman MORGAN. Mr. Biester?

TECHNOLOGY VERSUS END PRODUCT?

Mr. BIESTER. Secretary Clements, it has been suggested in reports that the new regulation be drawn to focus more on technology and know-how than on products themselves. That is a distinction I find very difficult to draw in a number of cases, and I wonder if you could spell out whether the distinction can be drawn and, if so, whether it is practical to think in those terms?

Mr. CLEMENTS. Mr. Congressman, I have heard that theological debate myself, and I don't agree with it. Certainly we should focus on technology—and I said so in my prepared statement—but that does not mean in any sense of the word that we should ignore the end product either.

I think, personally, and the department's view is, that the technology and the end product, are linked and you can't sever this umbilical cord, so to speak.

Now, certainly when we get into classifications of technology as it would affect broad classes of products that would use a common root of technology, that is one issue, but then we have to look at the products in themselves to see whether or not they would be eligible and whether we should agree to their export. It has been said in some instances that we could significantly shorten the control list by looking at it in this light, particularly with respect to COCOM and the restricted list that they have, but I am not so sure of that.

Until we would get into this study more and carefully go about it, as to how the broad view of the technology under question is applied to the products, the list may shorten in some respects and, on the other hand, it may also be added to significantly.

So, no, I do not agree with what has been said in this regard and I think we have to look at both.

LICENSING PROCESS COMPLEXITIES

Mr. BIESTER. Thank you.

I suppose when one talks about numbers of licenses—I have seen the so-called flow chart, the process the licensee has to go through before he gets his license, and I think to characterize the flow chart defies the English language.

Is there an average time that a license spends at your shop and any way we could modify that?

Mr. CLEMENTS. Yes, I could give the graph for the record, but the substance of it is that 90 percent of these items that are presented to us are completed within 30 days. I think that is a significant number, 90 percent within 30 days.

Mr. BIESTER. 90 percent on a dollar volume?

Mr. CLEMENTS. No; that is the number of items or number of licenses being applied for. It has nothing to do with dollars.

MILITARY EXPORTS AND THE ARAB BOYCOTT

Mr. BIESTER. My last question, Mr. Greenwald, or perhaps Secretary Clements may wish to comment on it, I say this without a sufficient background to even begin to predict the answer.

With respect to the weapons systems, are there American companies who sell military hardware to Israel who also sell military hardware to Arab States and thereby enable the Arab States to be selective in the application of the boycott?

Mr. GREENWALD. Certainly I would imagine that there are companies that are selling weapons in accordance with our regulations and requirements and laws to perhaps the Israelis as well as the Arab States.

I am not quite clear what you mean about allowing them to be selective. Do you mean selective among the companies?

Mr. BIESTER. Selective in the circumstances, yes.

Mr. GREENWALD. I assume their choice of companies relates to the programs and products that they are interested in rather than whether or not the companies sell to other people.

Mr. BIESTER. In other words the Arabs themselves do not apply the boycott in every instance and their rules and regulations may not be applied?

Mr. GREENWALD. As I suggested in my statement, what we are seeking is an easing of the way in which it is being applied, and I think we have achieved some progress in that respect. I think this applies generally.

So, while the boycott is technically in place and technically operates in the way it is laid out in the rules and regulations, in fact in the practical application of it, there has been substantial modification and we think we can achieve further progress in this direction by working with them quietly and not through legislative action.

Mr. BIESTER. Is that your view also?

Mr. CLEMENTS. Yes, sir. I agree with that, also.

Chairman MORGAN. Mr. Zablocki.

EXPORT OF NUCLEAR REACTORS

Mr. ZABLOCKI. Thank you, Mr. Chairman.

Secretary Greenwald, you state that under the Mutual Security Act of 1954 the Secretary of State maintains controls to all destinations over the export of arms, ammunitions and implements of war and related technical data and manufacturing license agreements. Since we are particularly concerned in my subcommittee about nuclear proliferation, I am wondering if nuclear reactors come under the review of the Office of Munitions Control in the Department of State? Further, I might ask Secretary Clements to what extent does the Department of Defense get into the export of nuclear reactors?

Mr. GREENWALD. My understanding is the export of nuclear reactors for civilian purposes or peaceful uses is not subject to licensing under the Mutual Security Act.

Mr. ZABLOCKI. Of course, the used fuel has the possibility of being recycled for plutonium, which then could be used for military purposes. Is that a concern of the department at all?

Mr. GREENWALD. I am sorry, I was addressing myself to the narrow question you put of the scope of the Mutual Security Act of 1954, and I don't think it falls under that. However, the question of export of nuclear reactors, nuclear material, or nuclear equipment is certainly a matter of concern to the Department of State, and it is something which is the subject of various discussions internationally as well as within the Government itself, as to how we should deal with the problem of exports of nuclear material that could conceivably be used for other than the civilian purpose for which it is intended.

Our main approach is through the Non-Proliferation Treaty and through the safeguards of the International Atomic Energy Agency. That is where our efforts are directed, rather than trying to control the export of nuclear material and nuclear reactors themselves.

CONTROLS ON NUCLEAR EXPORTS

Mr. ZABLOCKI. We were advised yesterday by a Commissioner of the Nuclear Regulatory Commission that we need to export highly enriched uranium and plutonium and other fissionale materials to countries for research and development. What control do we have in that area?

Mr. GREENWALD. My understanding of export enriched uranium, whether it is for use in power reactors or more highly enriched for research purposes, is that it is carefully controlled and that we have safeguard agreements with every institution or any body to which these nuclear materials are exported and we continue to monitor them. They have either direct controls, bilateral arrangements with the United States, or are subject to direct control by the atomic energy agencies.

Mr. ZABLOCKI. You are aware of the IAEA and some of the safeguard controls. The IAEA is trying to strengthen the controls and safeguards.

Mr. GREENWALD. Can we have the opportunity to submit an answer to the Congressman's question more in detail because I don't have all the detail here with me?

Mr. FINDLEY. Would the gentleman yield?

Mr. ZABLOCKI. I would be glad to.

Mr. FINDLEY. Would the gentleman be willing to examine language pending before the Subcommittee on National Security on this very point about which hearings were held yesterday? Would you examine that as you prepare your response to Mr. Zablocki's question?

Mr. GREENWALD. We will prepare our response in further detail in light of the discussions that took place yesterday.

[A Department of State official, Myron Kratzer, appeared before the committee on August 24 to discuss the proposed amendment, see page 560.]

[The committee print of the draft amendment follows:]

[Committee Print]

AMENDMENT TO THE DRAFT EXPORT ADMINISTRATION ACT AMENDMENTS OF 1976

Add the following new section at the end of the bill:

NUCLEAR EXPORTS

SEC. ——. The Export Administration Act of 1969, as amended by this Act, is further amended by adding at the end thereof the following new section:

"NUCLEAR EXPORTS

"SEC. 15. (a) (1) The Congress finds that exports by the United States of nuclear material, equipment, and devices, if not properly regulated, could result in the imminent acquisition of nuclear explosive devices by an increasing number of countries, thereby adversely affecting the foreign policy objectives of the United States and undermining the principle of nuclear nonproliferation agreed to by the United States as a signatory to the Treaty on the Non-Proliferation of Nuclear Weapons.

"(2) It is therefore the purpose of this section to implement the policies stated in paragraphs (1) and (2) of section 3 of this Act by regulating the export of nuclear material, equipment and devices which could prove detrimental to United States national security and foreign policy objectives.

"(b) (1) No agreement for cooperation providing for the export of any nuclear material, equipment, or devices for civil uses may be entered into with any foreign country, and no amendment to or renewal of any such agreement may be agreed to, unless—

"(A) the agreement provides that its provisions concerning the reprocessing of special nuclear material apply equally to all special nuclear material produced through the use of any nuclear reactor transferred under such agreement; and

"(B) the foreign country has agreed to permit the International Atomic Energy Agency to report to the United States, upon a request by the United States, on the status of all stocks of plutonium including spent fuel with plutonium uranium 233, and highly enriched uranium which are held in storage by that country.

"(2) No license may be issued for the export of any nuclear reactor pursuant to an agreement for cooperation unless the Secretary of State certifies that the recipient country has agreed that the provisions of the agreement concerning the reprocessing of special nuclear material received from the United States shall apply equally to all special nuclear material, regardless of origin, produced in such reactor.

"(3) No license may be issued for the export of any nuclear material, equipment, or device, pursuant to any agreement for cooperation unless the Secretary of State certifies that the safeguards applicable to such material, equipment, or devices, and to any special nuclear material produced therefrom, provide for reliable, timely warning of any diversion of special nuclear material from peaceful nuclear activities to the manufacture of nuclear explosive devices. As used in this paragraph, the term 'reliable, timely warning' means notice to the United

States or to the Board of Governors of the International Atomic Energy Agency of the occurrence of such diversion not less than 90 days prior to the earliest date on which manufacture of a nuclear explosive device could be completed.".

EAST-WEST TRADE

Mr. ZABLOCKI. Now back to East-West trade.

There has been an assertion made that the Department of Defense under its authorities is seeking to protect U.S. security interests, while the State Department is seeking to enhance diplomatic relations or diplomatic objectives. This has led to differences over export regulations and to ad hoc decisionmaking.

This is a serious problem. I ask both you, Mr. Clements and you, Secretary Greenwald.

Mr. CLEMENTS. Frankly, I have not found this to be a problem. We have a joint committee that is chaired by the Secretary of Commerce—I am a member, the Deputy Secretary of State is a member, Mr. William Simons, as the Secretary of the Treasury is a member. There is a representative from the intelligence community on the committee. We have met regularly and discussed the issues before us in a very frank and open way, and some of the implied vested interest that you mentioned relating to the individual departments, these interests have not been apparent in these meetings.

Cases have been essentially considered on the issue of national security and, frankly, we have not had a difficult time reaching our conclusions. Sometimes it has seemed to take longer than you would have thought, but in some instances at least there were very good reasons for this and it was perhaps a matter of procrastination rather than difficulty in reaching a decision.

Mr. GREENWALD. I agree entirely with what Secretary Clements has said. As in all matters requiring interdepartmental consultation and discussion, there may be some difference of approach, but that is the purpose of the interdepartmental machinery and, as he suggested, it has worked very well and we have resolved the differences.

What we are all looking at is the overall national interest and national security and all these various considerations that you mentioned obviously have to be taken into account. That is what goes on in these discussions, but there hasn't been any extraordinarily great difficulty in this field greater than we find in any economic or political subject for that matter where there are interdepartmental discussions.

EXPORT LICENSING DELAYS

Mr. ZABLOCKI. The GAO report also states that there are other delays, particularly in the Advisory Committee on Export Policy. It says the unanimity rule procedures are time consuming and encourage delays. Why can't these procedures be changed?

Mr. CLEMENTS. I personally think the process can be accelerated. I think that that intent is at the very heart of the Defense Science Board study. We would like to have time to work with the other departments and evolve a recommendation acceptable to all parties wherein it would result in an accelerated routine where these can be processed in a faster way.

On the other hand, there are some of the more significant decisions which escalate up to the senior committee that do require very careful consideration and some of the delays that have not been understood outside the committee were well considered and were intentional.

Mr. ZABLOCKI. Is there any reason why they meet only once a week?

Mr. CLEMENTS. No, sir, there is not and that could be a part of our recommendation.

Mr. GREENWALD. I wasn't aware there was any limitation on it. But, if that is one, we will look into it and see if they can meet until the agenda has been dealt with.

Chairman MORGAN. Mr. Burke.

PROCEDURES FOR SCRUTINIZING EXPORTS

Mr. BURKE. Mr. Clements, how do we actually know, or how do we go about insuring careful scrutiny over any of our export materials?

Mr. CLEMENTS. There are different checks that we have in regard to this as opposed to just this routine checking of the application for export license. There are other ways we can also check it. I personally do not feel that these procedures are adequate today. I think that we can improve them and this point is also made in the Defense Science Board study.

This is certainly one of the issues that we intend to address in our implementing of the study, and we have this under advisement right now because the procedures, as they are now enforced, are just not adequate to really do the job.

Mr. BURKE. Isn't it more essential now than ever before, in view of the Soviet buildup of their military capabilities?

Mr. CLEMENTS. I am not sure I understand your question.

Mr. BURKE. Isn't it more important now that they be exposed to scrutiny than in the past in our view now of the Soviet buildup of its military might?

Mr. CLEMENTS. Yes, sir, we agree completely with that and we also have a strong conviction that the technology exchange has become so important to where we have not been as careful as we should have been in the past in policing some of the third and even fourth country transactions where it is not a direct bilateral relationship between United States and Soviets but it goes through either a third and fourth party.

EXPORTS TO WARSAW PACT NATIONS

Mr. BURKE. That is what I had in mind in determining what the other Warsaw Pact nations or perhaps some of the satellites of the Soviet Union might do.

Mr. CLEMENTS. Yes, sir, and we fully intend to strengthen these procedures and these overviews beyond where they have been up to now.

Mr. BURKE. Isn't it also true not only with strategic material but with strategic knowledge and information such as that deduced from computers, calculators, and other items that could be very useful to them?

Mr. CLEMENTS. Yes, sir, this is exactly right, and it really covers the whole spectrum of electronics. This is where we think our greatest leakage has been.

Mr. BURKE. Getting back now to ordinary trade with the Soviet Union, how can we really trade or how can other countries trade with the Soviet Union when they have no hard currency arrangement with us? They trade in rubles, don't they?

Mr. GREENWALD. No; we do not trade in rubles. We receive hard currency, dollars, or Western currency, or gold in payment for our grain, for example. It is not done on credit, it is done with direct payments of convertible currency usable in the world, which is not what rubles are.

Mr. BURKE. Is dollar cash coming from the Soviet Union?

Mr. GREENWALD. Yes.

Mr. BURKE. We don't know if the printing presses we gave them back in 1942 are helping them do it?

Mr. GREENWALD. No, sir.

Mr. BURKE. It is not new currency?

Mr. GREENWALD. No, sir, they get their cash for products they sell, or gold sold on the world market. That is how we are paid for our grains.

Mr. BURKE. What about other materials? I know in China recently, that was one of the arguments the Chinese had in trading with the Soviet Union, that the Soviets would not trade in hard currency but traded usually in rubles.

Mr. GREENWALD. In the Soviet bloc, they use rubles with the Eastern European countries, and I suppose to the extent the Chinese are willing to accept them, but not in trade with ourselves or other Western countries. They have to have hard currencies, not rubles.

May I just add one point on this question of leakage or the problem of assuring that things don't slip through our export controls. Our controls apply equally well to Eastern Europe and all Communist countries. I didn't know whether you were suggesting we have different rules for some Eastern European countries and it might be transferred through them to the Soviet Union. The controls apply to them as well as to the Soviet Union.

Mr. BURKE. But we can't get behind those countries very well and get accurate information. We do, but now it must be more difficult than it has been in the past because of some of the investigations that were made here in the Congress to get some information we would like to get.

But, it is difficult, isn't it, really?

Mr. GREENWALD. Yes; it is difficult, but we still have some intelligence capability.

Mr. BURKE. The Soviets ultimately will open their doors wider if they want these things bad enough, won't they?

Mr. GREENWALD. They haven't agreed to end-use checks yet, if that is what you suggest, but we have some capability of finding out how it is used, whether for the purpose it was intended, or not.

Mr. BURKE. Thank you very much.

MODIFYING ARAB BOYCOTT PROCEDURES

Chairman MORGAN. Mr. Hamilton.

Mr. HAMILTON. Mr. Greenwald, I was interested in your observation on page 11 of your statement that we have had some success in the past

year in the modification of the boycott procedures. Specifically, what success have we had in modifying these boycott provisions?

Mr. GREENWALD. If I may, I would like to introduce Sidney Sober, Deputy Assistant Secretary for Near East and South Asia. He has been involved in these diplomatic endeavors.

Chairman MORGAN. Certainly.

STATEMENT OF SIDNEY SOBER, DEPUTY ASSISTANT SECRETARY FOR NEAR EAST AND SOUTH ASIA AFFAIRS, DEPARTMENT OF STATE

Mr. SOBER. Mr. Hamilton, we have some successes which I would characterize as limited, and there is a long way to go. But I will go down some of the things done, not necessarily in any priority order but as they occur to me.

One, Mr. Greenwald mentioned, this was the subject of the President's statement last November on discrimination——

Mr. HAMILTON. I am not asking what we have done; I am asking what modifications have occurred in the Arab boycott procedures?

Mr. SOBER. I understand.

Partly, at least, in response to things the administration has done, there have been responses with regard to this very troublesome issue of discrimination. Does it or doesn't it exist? And on this question we have had some very clear statements from Arab sources, from high official sources, both in public and in private, claiming that they do not discriminate on grounds of race, religion, ethnic origin and so forth, with regard to the application of the boycott.

With regard to some of the procedures that have been in use, there has been some notable progress achieved during the past year. Some changes have occurred with regard to language, for example, that have appeared as a matter of course in the past on shipping documents and letters of credit in which American suppliers were asked to certify certain negative things, for example, that a shipment which they were proposing to make to an Arab country did not contain any goods of Israeli origin or that a ship which was going to be used was not on the blacklist.

There has been some notable progress to eliminate this type of language. It is not perfect by any means, but at least there has been some indication that we have had some success.

AMERICAN FIRMS ON ARAB "BLACKLIST"

We have also had some evidence—I would rather not go into this in open session because it might tend to upset the progress that has been made—that a number of blacklisted American firms have been negotiating with Arab countries with regard to some possible collaboration, which would imply, if successful, eliminating these firms from the blacklist.

A number of American firms have reported to us that they have had some success in the past year with regard to negotiating contracts, or other transactions with Arab countries, which do not make any explicit mention, as had been the rule for some years past, of conditions about applying the boycott.

I would like to make one other statement which is somewhat marginal, Mr. Hamilton, but I think it is part of the whole package of problems with which we have had to deal. Again, coming back to discrimination—and I think there is a relationship to what the administration has done and the position we have taken.

We were informed by the Saudi Arabian Embassy here last week that effective this week they are not requiring visa applicants to submit, as has been the rule for many years, written certificates to support the statement of their religion. This is a move, I would say, in the right direction. It does not remove the problem.

RELAXATION OF THE ARAB BOYCOTT?

Mr. HAMILTON. Is it your impression, generally, that the Arabs are moving to relax the boycott?

Mr. SOBER. I would say, in certain instances we have these indications; but if you say generally, no. I think the evidence is rather that complete elimination of the boycott is something they feel extremely strongly about for political grounds.

Mr. HAMILTON. You say, in your statement this morning, you believe that further practical progress is likely. Is it your judgment that this progress is going to be similar to progress made in the past year, that is, in relatively small matters, nothing major?

Mr. SOBER. I think some of these are not so small. I think the important thing in the last year to note, Mr. Congressman——

Mr. HAMILTON. They are not large enough for you to characterize as a relaxation of the boycott?

Mr. SOBER. There are individual cases of relaxation, yes, sir. I would not call them a general relaxation.

I think what is important to note is there has been a rather intense activity by the administration, on the boycott.

We have done a number of things, Mr. Greenwald noted, and I think, in response to some of these things, we have had a positive reaction.

PROPOSAL FOR STRONGER ANTIBOYCOTT LEGISLATION

Mr. HAMILTON. May I shift a moment and ask another question with regard to your statement where you characterize any proposal for stronger antiboycott legislation to be confrontational, Mr. Greenwald? But suppose we enacted a stronger measure. We have a couple of proposals around. One is to make it unlawful for a U.S. company to comply with the boycott.

You also have the Stevenson amendment. Suppose one of those were enacted into law? This, I presume, you would call confrontational. What does that mean? What will happen if that is enacted into law? What will happen in terms of our economic, political, military relationships with Saudi Arabia or any other states?

Mr. GREENWALD. This is really the crux, Mr. Hamilton, of the problem as we see it. The efforts we have been making that were described in the opening statement and Mr. Sober has expanded on have achieved some progress. We are afraid that by highlighting the issue through new legislation the result will be to eliminate any possi-

bilities of continuing that progress and perhaps, even worse, may lead to a reversal or backlash; the result would then be a tightening up of the application rather than what we hope is a general process of some relaxation of the boycott.

More importantly, of course, the confrontational nature of it affects our ability, as you suggest, to deal with the broad political as well as the economic issues in our relations with the countries in the Middle East. That affects not only our political objectives in trying to get a longer term solution to the problem in the Middle East but, to bring it back to U.S. terms, will affect the ability of our own industry and our own labor to get the benefit of trade with countries in the Middle East.

EFFECTS OF ANTIBOYCOTT LEGISLATION

Mr. HAMILTON. Would you see, if one of these provisions were enacted into law, a major loss of business to the Middle East?

Mr. GREENWALD. That is our judgment.

Mr. HAMILTON. Would you say, in a political sense, that the efforts of the United States toward mediation of the Middle East conflict would be substantially set back?

Mr. GREENWALD. In our view it would adversely affect our efforts to try to achieve a settlement in the Middle East.

Mr. HAMILTON. Mr. Clements.

Mr. CLEMENTS. I would like, for the record, to show that we want to respond in the Department of Defense to these last two issues. It would have a considerably adverse effect on many of our programs in this general area, with industry and with our own internal program, if those results were experienced as you outline them there.

It would have an adverse effect. Also, I think it needs to be noted, as the Secretary mentioned, that with the sensitivity of the area right now as volatile as it is, this kind of action would, in our judgment, contribute to a sense of confrontation and would be counterproductive.

Mr. HAMILTON. Can you be specific for me when you use the words "adverse effects?"

What do you mean by that?

Mr. CLEMENTS. In my judgment it would bring about a deterioration of these relationships that we have been working hard to build with these various Arab countries, and I would specifically mention Syria, Saudi Arabia, Kuwait, Egypt, all of those countries with whom we have been making considerable progress—particularly the State Department—through diplomatic channels as well as the support we have given their efforts in the directions where we are effective.

I am convinced this would have a detrimental effect to those relations.

ARAB BOYCOTT: A POLITICAL CONTEXT

Mr. SOBER. We have never found it possible to disassociate an economic action on the boycott from the political context. We have had a certain amount of success, as you know very well—we wish it were more—in the last couple of years in helping to move the Arab states and Israel toward some eventual peace settlement.

We want very much to continue that effort, and we are dedicated to doing everything we can. We are quite sure that we have been able to have such success as we have had to date largely because the parties on both sides have had confidence in the goodwill of the United States and have been willing to permit us, if you will, to work with both sides.

With regard to the boycott, there is ample evidence that one or the other of the Arab countries have been concerned at what they have seen as a deliberate attack or campaign against them and have expressed to us their concern that further movement against them on the boycott would be taken as a sign of an unfriendly view of the United States with regard to them. I think it is inevitable that this is going to wash off in some negative way on the American effort to work with them and with Israel on the peacemaking effort. To think otherwise would be taking an enormous risk in the face of fairly clear statements they have given us.

Chairman MORGAN. The time of the gentleman has expired.

Mr. Winn.

THE BOYCOTT AND A MIDDLE EAST PEACE

Mr. WINN. Thank you, Mr. Chairman.

Secretary Greenwald, on page 11, the last paragraph, you say:

> However, it is also clear that the Arab governments are not prepared to drop the boycott altogether except in the context of an overall peace settlement.

Is there any definite indication that they would drop the boycott if there was a definite peace settlement?

Mr. GREENWALD. I think the answer to that is yes.

Mr. WINN. They have given you some definite indications of that?

Mr. GREENWALD. They view the boycott as a measure related to the state of war with Israel. It is a technique used by other countries in other circumstances, therefore, they relate it to their political and military position vis-a-vis Israel.

If we could achieve this long-term settlement, clearly, their economic, as well as political-military relations with Israel, would change and the boycott would no longer be relevant or applicable.

Mr. WINN. They said that or you assume that?

Mr. SOBER. If I may comment on that, yes, they have said it in a variety of ways. I don't know that it has been addressed in exactly the way your question was put, but basically the Arabs maintain that they are justified in maintaining a boycott because there is a state of war. So it is a political boycott they say they are applying, and they say, under international law, that this is a justifiable weapon.

Well, in the absence of the state of war, the basis for the maintenance of the boycott would disappear, and I do not think they would argue that point.

TECHNOLOGY VS. PRODUCTS: EXPORT CONTROLS

Mr. WINN. Secretary Clements, do you agree with the Defense Science Board task force conclusion that U.S. relations should be redrawn to focus on know-how rather than products?

Mr. CLEMENTS. Mr. Winn, I commented on this at some length a little earlier.

Mr. WINN. I am sorry I missed it.

Mr. CLEMENTS. I do not think you can separate these two. This know-how or the technology involved is certainly linked to the end product or the hardware and both of these issues should be very carefully considered.

I don't think we have given the attention in the past to the basic technology we should have. I think all of us agree with that.

Nevertheless, we still need to consider the end products and the hardware that comes out of the technology. So we have to look at both.

Mr. WINN. Are you trying to devise any system where they can be separated or do you feel it is almost impossible?

Mr. CLEMENTS. I think it is impossible, and I don't think they should be separated.

INDUSTRY INPUT TO COCOM LIST

Mr. WINN. Secretary Greenwald, I have been wondering, listening to both of you talk, what input industry has in the revision of the COCOM list? How much participation do they have?

Mr. GREENWALD. I think Secretary Clements answered that in response to an earlier question.

In developing our position on the list or in exception cases we draw on our own expertise in the Government, as well as outside Government, industry experts.

Mr. WINN. Do other countries take industry with them to places like Paris and other places to participate in negotiations?

Mr. GREENWALD. No; to the best of my knowledge it is all Government representatives, although there are positions from other countries as well as our own that may be based on knowledge from industry.

Mr. CLEMENTS. We do not feel the lack of input from industry or from outside technical sources, consultants, and so forth. These are readily available to us, and sometimes we get more of this than we would really like, so this just is no problem. There is a very open line of communication and you can be sure that industry as they are seeking these export permits and trying to make these arrangements overseas, they are in touch with us, not only the particular company involved, but several companies within the industry on a competitive basis. So I don't look upon this as a problem.

Mr. WINN. Do our industries—are they forced to turn to other countries for timely publications of the COCOM list?

Mr. CLEMENTS. I am not aware of that.

Mr. WINN. There have been discussions, not formal allegations, that other countries' lists are more up to date than ours are.

Mr. CLEMENTS. Dissemination of the information is readily available, and I have never heard this from any industry representative. And I don't think my associates have.

U.S. EXPORT CONTROL LIST

Mr. WINN. Does the U.S. Government publish the list?

Mr. GREENWALD. There is an export control list. The Department of Commerce publishes it and keeps it up to date.

Mr. WINN. It is not in the Federal Register but a separate publication?

Mr. GREENWALD. I don't know whether it is a separate publication, but it is certainly available to the public generally and to industry.

Mr. CLEMENTS. Dr. Shields tells me one of the comments he has heard from the side of industry is that the list is too long, too complicated, and too involved, there is too much detail.

Mr. WINN. That is probably true.

Does the exporter have access to the list?

Mr. CLEMENTS. Yes, sir. You are talking about the exporter-manufacturer company?

Mr. WINN. Yes.

Mr. CLEMENTS. Yes, sir, they do.

Mr. WINN. Thank you.

Thank you, Mr. Chairman.

Chairman MORGAN. Mr. Solarz.

IMPROVEMENTS TO EXPORT ADMINISTRATION ACT

Mr. SOLARZ. Thank you, Mr. Chairman.

Do either of you gentlemen have any suggestions to make concerning possible improvements in this legislation, or are you basically calling for a simple extension of the authorization?

Mr. CLEMENTS. May I go first, Mr. Congressman?

Mr. SOLARZ. Surely.

Mr. CLEMENTS. Our position is that we are heavily engaged right now internally in studying it and we want to come forward with some suggestions but we are not ready right now.

Mr. SOLARZ. When do you think you will be ready?

Mr. CLEMENTS. May I consult—if you need a time, may I consult with my people here?

COMMITTEE MARKUP PLANS

Mr. SOLARZ. While they are consulting, could I ask the chairman if he could give us any sense of what the timetable is in terms of the committee's consideration of this legislation?

Chairman MORGAN. We have 6 days of hearings scheduled, Mr. Solarz, and at the end of the 6 days' hearings, we will proceed with the markup.

Mr. SOLARZ. You expect to get to the markup before the July recess or afterwards?

Chairman MORGAN. I would imagine after the July recess.

Mr. SOLARZ. I would hope, Mr. Clements, you could come forward with your recommendations before the committee begins its markup, hopefully before it completes the hearings.

Mr. CLEMENTS. As I understand it, the act expires in September, and in discussing this with Dr. Currie and Dr. Shields, they do not feel that we can have a comprehensive study completed by that time. So what we are really asking is to stay in communication with this committee to tell you what we have at that time but really we are asking for an extension.

Mr. GREENWALD. Mr. Chairman, as I understand the position, we are seeking a simple extension of the legislation without any substantial amendment. My understanding of what is being considered

is some possibility of looking again at the penalties for violation of the export control regulations and that is the only matter as far as I know that is still pending.

For the rest of it, we are seeking no amendment whatsoever but a simple extension.

INTERDEPARTMENTAL DIFFERENCES ON EXPORT CONTROLS

Mr. SOLARZ. Could you tell us whether, in the consideration which you have given to these export licenses, there are many instances in which State and Defense have disagreed with respect to whether or not an export license should be granted?

Mr. GREENWALD. Well, as I suggested earlier, in any kind of an interdepartmental consideration of any subject, export licenses or anything else, there are likely to be differences. If there weren't differences, we wouldn't need interdepartmental consultation.

Mr. SOLARZ. Were there any differences?

Mr. GREENWALD. I am sure over the past years there have been some.

Mr. SOLARZ. Could you give us examples of what they were?

Mr. GREENWALD. I am afraid I don't have specific examples.

Mr. SOLARZ. Could you supply them for the record?

Mr. GREENWALD. Specific cases where we differed?

Mr. SOLARZ. Yes; and the basis of the difference.

Mr. GREENWALD. If it is unclassified, yes.

Mr. SOLARZ. I think we can receive information on a classified basis. We can't make any promises it will remain that way, but I think we are entitled to receive it.

[A portion of the information submitted is classified, and therefore has been retained in the committee files. An unclassified version of the response follows:]

DEPARTMENT OF STATE,
Washington, D.C.

Hon. THOMAS E. MORGAN,
Chairman, House International Relations Committee,
House of Representatives.

DEAR MR. CHAIRMAN: In the course of my testimony before the International Relations Committee I was asked whether there have been many instances in which the State and Defense Departments have disagreed with respect to action on an export license. I undertook to provide for the record examples of cases involving such differences. The cases in question—which are very few—involve COCOM matters that themselves are necessarily handled on a classified basis. Therefore, I am providing you separately a classified report on such cases. I believe, however, that some additional information on how decision on export licenses and exceptions requests are reached may be useful to the Committee.

Congressman Solarz' questions both to me and to Secretary Clements appeared to deal with U.S. export license cases. These cases, to the extent that interdepartmental consideration is required, and handled within the interdepartmental committee which advises the Department of Commerce on export control actions. As you are aware, the Department of Commerce has established successive levels of interdepartmental committees culminating in the Export Administration Review Board chaired by the Secretary of Commerce.

While differing advice may be supplied to Commerce by the State and Defense representatives in the staff level committee which examines export licensing cases, the issue is whether differences are serious enough to be appealed and considered at the top level by the Export Administration Review Board. While a few specially important cases have been referred to the Board for its review (including some that because of policy complexity were not previously examined

at subordinate levels) and while differing views were expressed in the discussion at that level, agreement on the action to be taken in each case has been reached and there has not been the necessity to refer a split position to the President for resolution in recent years.

Although Congressman Solarz' questions related to U.S. export licensing, there is also the question of the U.S. position to be taken on exception requests presented in COCOM by other participating countries. Exceptions presented by the United States are of course first approved within the U.S. Government through the Department of Commerce advisory procedures. Cases introduced by other COCOM member countries are documented by them and sent to each of the participating governments, including the United States, for approval.

The procedure for reaching a U.S. Government position on a COCOM exception case presented by another country is carried out through the Economic Defense Advisory Committee which is chaired by the Department of State and includes as advisory members representatives of Commerce, Defense, ERDA, and other interested agencies as appropriate. Like the Commerce Committee structure, the Economic Defense Advisory Committee structure provides for appeals and reviews of agency differences at successive levels. There is not always agreement on the U.S. position to be taken on such COCOM cases, but the Department of State attempts to develop the necessary technical evaluation and substantive position through a consensus at the interdepartmental staff level to the extent it is possible. As in the case of the Commerce Department review of U.S. export licensing cases, the critical element is whether an agency feels strongly enough to appeal a decision by the Department of State in instances where a consensus is not possible.

The agreed interdepartmental guidelines in these matters provide that the Department of State, as the agency having both the responsibility for administering the Battle Act and generally for instructing U.S. delegates in international negotiations, may determine the position to be taken in disagreed cases if a dissenting agency elects not to appeal to a higher level. Such determinations occur infrequently.

We have reviewed 218 requests for exceptions to the COCOM embargo submitted by countries other than the United States from January 1, 1976 through June 16, 1976. During this period there was only one case in which a U.S. position of "no objection" was registered in COCOM despite Defense recommendation to the contrary. Defense did not appeal the decision taken for other relevant reasons in this case.

Of the 218 cases, the United States approved or approved with conditions 167, approved portions and objected to portions of two other cases, and objected to 11 complete cases. The remainder are still pending.

I hope this will be a helpful explanation.

I would like also to re-emphasize a point which I made in response to the criticism by industry representatives to the effect that they do not have access to the COCOM list and therefore cannot tell which items may or may not be traded. The Department of Commerce export administration list includes a number of items going beyond the agreed COCOM list. However, it is possible by reference to the interpretive key explaining the list to determine which items are under control by Commerce by virtue of their inclusion in the COCOM list. Moreover, the other COCOM countries whose controls are identical with the agreed COCOM controls themselves in fact publish a national control list that is identical with the COCOM control list. Thus the business community should have prompt and ready access to the authoritative version of the control categories.

JOSEPH A. GREENWALD,
Assistant Secretary for Economic and Business Affairs.

DOD OPPOSITION TO CERTAIN EXPORTS

Mr. SOLARZ. Secretary Clements, is your memory perhaps better on this question?

Mr. CLEMENTS. Mr. Congressman, my memory is perhaps a little better because I was on the receiving end of negative votes so perhaps I was more impressed than State.

Mr. SOLARZ. Which side of the issue were you on, favoring the license or opposition?

Mr. CLEMENTS. We were, over the period of several years, in the position of taking an adverse position to some of the suggested exports.

Now, I want to be sure it is understood there are different levels at which this is manifested—at lower staff levels and then there is an intermediate level of the interagency group and then I am talking about the senior review group which is chaired by the Secretary of Commerce and represented by the Deputy Secretary of State.

Now, over a period of time we could voice dissent within that committee, but the State Department had the last say, so to speak, and their vote was the only one that really counted. We had, in the final analysis, a recourse to the President, and that was used with great care and only occasionally.

Mr. SOLARZ. I appreciate the response, Mr. Secretary. I think it would be very helpful if this information could be supplied, if you could give us for the record where Defense differed from State, where you carried the appeal and what the basis for the disagreement was.

Mr. CLEMENTS. We can. But the conclusion of my remarks should be known that this problem in my judgment no longer exists and under the present procedures, which is in accordance with the Jackson amendment, which was passed about 18 months ago, I believe, this situation has corrected itself and we haven't had these kind of differences lately.

Mr. SOLARZ. I appreciate the response.

If you could get it into the record before we mark up the bill, it would be helpful.

THE ARAB BOYCOTT

One final question on the boycott.

Mr. Sober, I wonder if you could give us any idea, if you have the information, as to the total number of American firms that specifically have refrained from doing business with Israel because of the boycott and, second, are you in a position to give us any kind of a judgment as to the economic impact on Israel of the Arab boycott?

Mr. SOBER. We don't have any way to measure with any degree of exactitude how many American firms might have refrained from doing business with Israel because of concern on something like this.

We have tried to clarify what I think is a common misconception, Mr. Solarz, in this regard. I think a number of American firms, with all of the suddenly increased attention in the past year, came to the conclusion that if they did business with Israel, they are going to find themselves on the Arab blacklist.

Our understanding of the way in which the Arabs administer the boycott is not in accord with such an understanding, or misunderstanding. A normal commercial relationship with Israel does not give rise to putting a company on the blacklist. There are thousands of American firms which continue to sell to Israel and there is no danger about their being on the blacklist.

Mr. SOLARZ. What gets them on the blacklist?

Mr. SOBER. There are a number of criteria, and I could run down the types of things which the Arabs say will subject a firm to blacklisting.

Chairman MORGAN. The time of the gentleman has expired.

Mr. SOBER. We can put this in the record.

[The information, subsequently submitted, follows:]

DEPARTMENT OF STATE,
Washington, D.C., June 21, 1976.

Hon. THOMAS E. MORGAN,
Chairman, House International Relations Committee,
House of Representatives.

DEAR MR. CHAIRMAN: During the hearings on June 8, 1976, before your Committee on the renewal of the Export Administration Act, the Department of State was asked to cite examples of actions by American firms which could subject them to blacklisting under the Arab League's boycott of Israel. Your Committee also asked for comment on the effect on Israel of this boycott.

Enclosed is a list of the types of actions which are purported to be causes for blacklisting under the general principles of the Arab boycott. The list, while drawn from Arab publications, does not reflect a full picture of actual enforcement by individual members of the Arab League. The Arab boycott has not been uniformly administered among the participating Arab countries; nor is enforcement uniform even within particular countries. Individual countries observing the boycott have weighed their respective national interests generally and in the context of specific dealings with foreign firms. In many respects, enforcement responsibility is left to importers or to other businessmen in the respective countries. As indicated by the asserted causes for blacklisting, many aspects of the boycott cannot be enforced easily, if at all.

We do not have a very clear measure of how much the Arab boycott may have impacted on the Israeli economy. In general, Israel has enjoyed record economic growth over the twenty-five years during which the boycott has been in effect. At the same time, the boycott undoubtedly has deterred investment by some firms and caused other firms to insist on doing business quietly through intermediaries in order to avoid boycott complications. The following trade statistics indicate, however, that U.S. exports to Israel have continued to rise in recent years. The U.S. share of the Israeli market, which declined in the early 1970's has rebounded in the most recent year (1975) for which statistics are available.

[Dollar amounts in millions]

Year	U.S. exports to Israel	Total Israeli imports	U.S. share (percent)
1972	$557	$2,470	23
1973	960	4,240	23
1974	1,200	5,390	22
1975	1,550	[1] 5,770	27

[1] Estimated.

Also, Israel's Central Bureau of Statistics figures indicate that total investment in Israel, including a large share of foreign investment, rose by 18 percent in 1975. We believe that a substantial share of the foreign investment comes from the United States.

Sincerely yours,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Enclosure.

ACTIONS BY AMERICAN AND OTHER FOREIGN FIRMS WHICH ARE SAID TO SUBJECT THEM TO BLACKLISTING UNDER THE ARAB BOYCOTT OF ISRAEL

I. Manufacturing and Trading Companies. The following activities are forbidden:

A. Establishing factories or assembly plants in Israel;

B. Establishing general agencies or main offices in Israel for Middle East operations;

C. The use of a company's name or a manufacturing license by an Israeli firm;
D. Holding shares of an Israeli firm;
E. Rendering technical or consultative services to Israeli factories;
F. Membership in a foreign-Israeli chamber of commerce;
G. Being agents of Israeli firms or principal importers of Israeli products;
H. Prospecting for natural resources in Israel;
I. Refusing to reply to a questionnaire from the boycott authorities; and
J. Using in their own products, parts or materials produced by a blacklisted firm.

II. Ships:
A. Calling on an Arab and Israeli port on the same round trip (tourist ships excepted);
B. Transporting material helpful to the Israeli war effort;
C. Being chartered to Israeli companies;
D. Transporting Israeli industrial, commercial, or agricultural products;
E. Transporting Jewish immigrants to Israel; and
F. Refusing to present manifests of shipments off-loaded at Israeli ports.

III. Banks:
A. Making loans to Israeli firms which assist major military, industrial, or agricultural projects;
B. Distributing or promoting the sale of Israeli bonds;
C. Establishing firms in Israel; and
D. Investing in firms which also have Israeli capital, either in or out of Israel.

IV. Films, Motion Picture Companies, and Performers:
A. Production of films that distort Arab history, promote Israeli or Zionist propaganda, feature Israeli or pro-Zionist performers, are photographed in Israel, or are of Israeli production;
B. Motion picture and television companies that, after being warned, continue to produce films as described in A (above) or invest in Israeli companies.

Chairman MORGAN. Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

Pursuing the question raised by the gentleman from Kansas, Mr. Winn, Mr. Greenwald, in your statement, you state:

All actions and decisions by COCOM are confidential by agreement, including the lists of controlled commodities.

U.S. INDUSTRY AND THE COCOM LIST

My recollection is that one of the complaints by industry is that the Government doesn't provide them with access to the COCOM list—not the U.S. control list—but the COCOM list, while other members do provide it to their exporters.

Is that the case?

Mr. GREENWALD. Mr. Congressman, my understanding is that we have an export control list that goes beyond the internationally agreed list and we don't distinguish on that list as to which are COCOM and which are United States. They are all subject to our restrictions.

Mr. GILMAN. Is there a COCOM list that is separate and apart from the U.S. control list?

Mr. GREENWALD. There is an agreed international control list.

Mr. GILMAN. Is that known as the COCOM list?

Mr. GREENWALD. Yes.

Mr. GILMAN. Is that list made available to the exporters?

Mr. GREENWALD. It is made available publicly in the United States in the context of our total export control list.

Mr. GILMAN. Are there items on the COCOM list that are not on the U.S. export list?

Mr. GREENWALD. No, it goes the other way. We have on our list everything in the COCOM list plus some items we control unilaterally.

Mr. GILMAN. Then this objection we hear is invalid, is that what you are saying?

Mr. GREENWALD. As far as I understand.

Mr. GILMAN. There is no basis for it?

Mr. GREENWALD. No basis at all.

STATUS OF COCOM DECISIONS

Mr. GILMAN. With regard to COCOM decisions, State has testified previously that member countries have no legal obligations to COCOM and that each government makes and implements its own decisions. Since national laws and export policies are not uniform, how can the United States be confident a COCOM decision will be honored uniformly by the participant nations?

Mr. GREENWALD. Mr. Congressman, as you suggest, this is not a legal, binding obligation in the usual sense of a treaty. We do to some extent have to depend on the good faith cooperation of the member states, but we also have the possibility for checking on their own actions, but that is primarily their own responsibility. We receive some information about it and there are opportunities to discuss COCOM enforcement procedures.

We have a separate body dealing with enforcement and compliance on an international basis. One of the points in the GAO report I think had to do with exactly the questions you are asking, and we are looking into that to see whether we can make it more effective.

Mr. GILMAN. What sort of enforcement procedure is that?

Mr. GREENWALD. Our own; each country does it nationally. There are discussions among people responsible for enforcement and compliance in each one of the member states, so you see how they go about it and exchange information.

Mr. GILMAN. If one nation doesn't agree the enforcement is being properly enforced in the other nation, what remedy do they have available?

Mr. GREENWALD. I think all it can be is friendly persuasion.

CHEATING ON COCOM CONTROLS

Mr. GILMAN. Don't some countries, especially our own Nation, lose out in export by occasionally cheating, as industry spokesmen claim?

Mr. GREENWALD. That goes back to the basic question you asked, are all the countries applying the COCOM rules and regulations exactly the same way. To the extent we can possibly achieve that, that is what we have tried to do over the years.

Since it is, however, being done on a national basis and neither a formal treaty nor international obligations are involved, there is no way you can enforce it in the same way you can a treaty. We do the best we can to make sure there is no what you call cheating and to the extent possible that all the governments are observing the COCOM

rules in the same way so that everyone is on more or less the same footing.

We are at a disadvantage, to come back to your earlier question, when our list is longer than the other countries. If we unilaterally apply restrictions that other countries don't, we can't complain if others ship items not on the COCOM list.

Mr. GILMAN. Is that done by anyone else?

Mr. GREENWALD. I suppose you would have sales that could not be made by an American firm, but could be made by a competitor.

Chairman MORGAN. The time of the gentleman has expired.

Mr. Bingham.

THE ADMINISTRATION TIMETABLE ON EXPORT CONTROLS

Mr. BINGHAM. Thank you, Mr. Chairman.

Secretary Clements, I am not given to upbraiding executive branch agencies, but honestly, I am shocked at the timetable that you have outlined to us. The subcommittee which I chair, the Subcommittee on International Trade and Commerce, had hearings on this subject last March. We went over all this ground; we heard from industry, heard in detail complaints industry had. And we will get more of them this week.

You have this really comprehensive report by the board which was outlined to us on March 30, and yet, you now are telling us that you have set up a steering group under Mr. Currie's leadership to study this report and to come up with recommendations for possible legislation by September. You state that on page 8 of your statement.

You know this legislation comes up for renewal in September. You know how long it takes to get legislation through. It simply is not possible for this committee to delay its markup to September. We will be in a position of having to go ahead with the legislation as best we can without knowing what your recommendations are.

I understand Mr. Currie has been recently given some enormous new responsibilities and perhaps the problem is that he just is too busy to be chairman of this steering group. But I must say that I think in view of the fact you have known this was coming—we had these hearings back 3 months ago—it is incredible you are telling us today you are just getting around to setting up a steering group to come up with the answers. We will have to operate as best we can without the advice of the Defense Department.

Mr. CLEMENTS. Your position is well taken, and I am sympathetic to it. I would like us to have an opportunity of taking another view of how soon we can get this out to you. I am not sure, it is an interagency group. It is not just the Department of Defense that is affected, and the coordination within the interagency group within the time frame between now and September, considering the detail that we have to address, is not very long. But I should like, with your permission, to look at this and see what we can do about it.

Mr. BINGHAM. Thank you. I hope you will; it is in your own interest to do it.

The legislative process will be proceeding, and we won't have your views.

Mr. CLEMENTS. I was not aware of the time urgency and the dates that you were talking about until this morning.

Mr. BINGHAM. I don't believe you testified before the subcommittee, but certainly other representatives of the Department of Defense did and all the other departments that take part in this process testified, so the administration itself has been well aware at the top.

Mr. CLEMENTS. We will see what we can do.

THE ARAB BOYCOTT

Mr. BINGHAM. One question in the area of the Arab boycott.

Mr. Sober, could you tell us if there has been any shift in the attitude of Egypt on the boycott since the second agreement in the Sinai was reached?

Mr. SOBER. Each member of the Arab League applies the Arab boycott in its own way. They do get guidance that comes out of interministerial, intergovernmental meetings, but each country has its own list and each will be guided by its own view, sometimes differing because of its national interest.

Egypt certainly fits into that category.

Mr. Bingham, I hope you will understand if I say I would rather not in open session go into any detailed discussion of this point, I don't mean to lead you to make any assumptions, but unfortunately because of the sensitivity, the high political content and the way in which the boycott is applied, undue publicity tends to deter countries and firms which would like to do something which is not normal, if you will, toward easing the boycott. And I would like to say that Egypt is aware of its interest.

On the other hand, Egypt is a member in good standing of the Arab community, and there is a problem it faces, such as any Arab country would face, in the desire to do something that is not normally a part of the boycott procedure.

POSITION ON ANTIBOYCOTT AMENDMENT

Mr. BINGHAM. I understand your concern and problem with regard to publicity.

Do your comments in this regard go to the merits of a legislative proposal, such as I understand the Stevenson amendment to be, that is directed at total disclosure of company activities?

Mr. SOBER. Yes; it would. That is one of the features that we do feel is not necessary at this time and is part of the reason why the administration feels that no additional legislation on this subject is necessary or desirable at this time.

If I can comment on the point about disclosure, as you know, the administration has moved within the past year to require exporters to report to the Commerce Department, which administers the act, as to how they have responded to a boycott questionnaire. That is an important new addition to the requirement which the administration has brought into effect during this last year.

Let me note one possible effect of disclosure which gives us some concern. We understand the purpose that Congressmen may have in seeking public disclosure. We also note that for a firm to disclose and

have it reported that it has not complied with a boycott request may indeed make it more possible for the boycott administrators to take action against that particular firm. This is one of the fallout effects for which we oppose the proposed requirement of public disclosure.

We think it would have a different effect than what the sponsors would wish.

Mr. BINGHAM. Is there also a problem that countries which are supposedly adhering to the boycott don't want much publicity about the fact that they are dealing with firms on the blacklist?

Mr. SOBER. That is absolutely true, and if there is anything which would turn around the progress which has been achieved in this particular regard, it is that type of publicity because it would take a very rare case for an Arab country to wish to be singled out as going its way even if it meant not going along with the boycott procedure.

Chairman MORGAN. The time of the gentleman has expired.

Mr. Findley.

TIMING OF ADMINISTRATION RECOMMENDATION

Mr. FINDLEY. I will put on a bipartisan basis the concern which Mr. Bingham has expressed about the timetable. I am puzzled, as to why the executive branch, on the eve of the expiration of the act, has not come forward with recommendations. And I am sure the administration has been aware of it.

If it is not, then we have really great cause for concern. Over the years the administration has not been shy or reluctant about trying to influence the course of legislation, yet, that does appear to have been the posture here.

Can any of you shed any light on why this strange situation is before us?

Mr. CLEMENTS. Let me try, Mr. Findley.

I did not realize the time urgency of your schedule until this morning. Dr. Currie didn't either and neither did Roger Shields in the sense that we were addressing the procedural aspects, the process, the system, if you will, in the implementation of this Defense Science Board report internally within the system.

Mr. FINDLEY. But you surely knew the Export Administration Act with which the report dealt was expiring?

Mr. CLEMENTS. You tell me I surely should, but I didn't.

I am sorry, but we didn't. So, in a quick little aside here with Dr. Currie and Dr. Shields, I think we can come up with some recommendations with respect to the legislation as opposed to the process within the system, which is a completely different matter. We will try to work that through the interagency group and get it coordinated and get back over here to you in a timely fashion.

CONGRESSIONAL INITIATIVE ON EXPORT CONTROLS

Mr. FINDLEY. I don't want to leave the wrong impression. I think it is great for the Congress to initiate legislation, and I think we have had some excellent initiatives in this committee.

We restructured the Foreign Aid Act, and this committee was largely responsible for drafting the War Powers Resolution, so maybe this is part of the trend we can expect in the future.

Dr. Greenwald, let me ask—I believe this is largely your domain—is there anything in the Export Administration Act which you feel needs to be changed in regard to food exports?

Mr. GREENWALD. I am not aware that there is any change required. You said food exports?

Mr. FINDLEY. Yes.

Mr. GREENWALD. You are thinking of the short supply provisions?

Mr. FINDLEY. That is right.

Mr. GREENWALD. I would have to confess I have not examined that recently, but my understanding is we consider the present provisions are adequate to deal with the problems that we have had or that we may have in the future with respect to the need for export control under extraordinary circumstances.

You are talking about the short supply provisions and not the strategic controls?

Mr. FINDLEY. Yes.

Mr. GREENWALD. As far as I know we have taken a look at those and consider that they are satisfactory in their present form.

CONVERTIBILITY OF EASTERN EUROPEAN CURRENCIES

Mr. FINDLEY. May I ask, Mr. Greenwald, we were discussing a few minutes ago the nonconvertibility of the ruble. Are there any of the pact currencies that are convertible to any extent outside the pact?

Mr. GREENWALD. To the best of my knowledge, not in the sense of the Western convertibility; they are not freely convertible in Western Europe. There is the black market. Some are available in European currency markets, but not at an official rate.

No currencies are supposed to leave the country or be exchanged except at the official rate.

Mr. FINDLEY. Is that true of Yugoslavia?

Mr. GREENWALD. No; I was thinking of the other countries. Yugoslavia is a little closer.

Mr. FINDLEY. Does that apply in the case of Poland?

Mr. GREENWALD. I don't think it applies in the case of Poland.

Chairman MORGAN. Mr. Wolff.

THE PRC AND EXPORT CONTROLS

Mr. WOLFF. Secretary Clements, on the last page of your statement, you say:

> We are retarding the growth of the Warsaw Pact and PRC military capabilities, contributing to the success of our deterrent strategy and reducing the expenditures we must make for our defense.

As part of that senior review board have you been privy to any of the conversations relative to military or defense-related equipment sales to the PRC?

Mr. CLEMENTS. No, sir, that has not been a subject of this group at all.

Mr. WOLFF. It has not been a subject at all?

Mr. CLEMENTS. No, sir, it has not.

Mr. WOLFF. Mr. Greenwald.

Mr. GREENWALD. No, sir, as far as I know that is something I read about in the newspaper, no discussion in the State Department.

Mr. WOLFF. It seems to me there has been a lot of discussion, and here you two sit on a very important board that makes the decision as to whether we should sell military equipment to these people and while the whole world is talking, you have held no discussions.

Have discussions been held within the Defense Department?

Mr. CLEMENTS. No, sir, there have not been. I want it clear in the first instance I am replying with regard to the review group that has to do with export of these items which we have been discussing this morning that is chaired by the Secretary of Commerce, which I referred to on several occasions. There has been no discussion in that group whatsoever.

Mr. WOLFF. Have there been discussions within the Defense Department itself that you are aware of?

INDUSTRIAL EXPORTS TO CHINA

Mr. CLEMENTS. If you are talking in terms now of the normal industrial-type exports to China, that is another issue, but you specifically mentioned military hardware.

Mr. WOLFF. I said defense or defense related, which would have an end use capability.

Mr. CLEMENTS. That is a little different if they are dual-use items.

Mr. WOLFF. Unfortunately, in these hearings we may get confusing answers because we not only don't know the answer, we don't know the specific question to ask.

Part of the problem is that, I understand discussions have been held relative to the sale of equipment, that could have military applications in radar, communications equipment, and the like.

Mr. CLEMENTS. I apologize because I misunderstood your question.

The answer is yes to this last. There have been some instances, some cases, where this has come up and where that particular equipment being considered might have a military end use and that has been discussed. But that was different than what I thought you asked in the first place.

Mr. WOLFF. Have any decisions been reached on that yet?

Mr. CLEMENTS. Yes, sir, some decisions have been made. Some have been favorable and some negative.

Mr. WOLFF. Would you furnish for the committee either on a classified or unclassified basis that information?

Mr. CLEMENTS. Yes, we will be happy to.

[The information subsequently submitted, is of a classified nature, and therefore retained in the committee files.]

EXPORTS TO ITALY

Mr. WOLFF. Another area I want to go to, has this committee, the senior review board, had any discussions relative to the question of Italy, should in the next elections Italy become a Communist government, Mr. Greenwald?

Mr. GREENWALD. Mr. Congressman, as far as we are concerned the Italian Government is participating in the NATO Alliance and

COCOM operations, and any speculation of what the future position of Italy may be is not what we would consider particularly fruitful at this time.

Mr. WOLFF. You have no contingency planning?

Mr. GREENWALD. No contingency planning in the sense we will decide or think about what the position of Italy might be under different circumstances.

Mr. WOLFF. The Secretary of State has made statements relative to this event—wouldn't it be logical there would be some planning?

Mr. GREENWALD. To the extent people have queried the Secretary of State on what his view is with respect to the Government of Italy, he stated his position that it would have an effect on our bilateral relations and the relations in the alliance. But any contingency planning for export controls, as it might affect——

Mr. WOLFF. It would seem to me that we would be taking some steps to have some plans in mind in the event that a decision that was basically antithetical to our interests was made by the Italian people.

Mr. GREENWALD. The Secretary of State has made it clear that any susbtantial number of Communists in the Italian Government would affect our relations. But we have not come to any conclusion that will be the outcome of the elections.

As a matter of fact, we devoutly hope it will not be. At this stage there certainly is no kind of contingency planning relating to the Export Administration Act or any other specific aspect of our trading relations with Italy.

MONITORING EXPORT LICENSES

Mr. WOLFF. Do you gentlemen of this review board monitor the licensees after they have been processed down the line and granted the license?

Mr. GREENWALD. We have a system of following the sale of particular goods that have been licensed, particularly where there is a dual use item where the license has been granted on the use that it is to be put. We do our best to monitor that use to make sure it is consistent with the basis on which the license was granted.

Mr. CLEMENTS. Mr. Wolff, in some particular cases that we consider especially sensitive, we have safeguards built into the arrangement in the beginning on the understanding that we will either have periodic inspections of the use of the equipment or we will have a maintenance arrangement about the equipment.

Mr. WOLFF. Does that also apply to conditions of sale?

Mr. CLEMENTS. Yes, sir, it actually becomes a part of the sales' agreement.

Mr. WOLFF. I know my time is up, but I would like to ask one further question.

EXPORT SALES AND BRIBERY

With that in mind, the recent allegations made relative to excesses or conditions of sale relative to possible attempts at bribery and the like, I wonder what effect do you think this will have on us in the future so far as our ability to sell, or the security arrangements we might have with some of these nations that are involved?

Mr. GREENWALD. If you are talking about the kind of issue that has arisen in connection with what is called unusual or questionable payments, we have made it clear that we consider this is not either necessary or a desirable way to conduct business.

As you know, the President has established an interdepartmental committee under Secretary Richardson to look into that. In addition, I think there have been some——

Mr. WOLFF. Will it have any effect on future licensing?

Mr. GREENWALD. Export control licensing?

Mr. WOLFF. Yes.

Mr. GREENWALD. As far as I know our criteria will continue to relate to national security and won't necessarily be affected by this.

The kind of measures we are taking to deal with the corruption and bribery issues. We have proposed an international agreement to take care of that.

Mr. WOLFF. Doesn't it affect our national security when we have people who are conditioned by these charges, prior to their purchase, changing their purchase over to someone else?

Mr. GREENWALD. We are certainly concerned to insure that the effect of these disclosures, these stories, do not have an adverse impact on American ability to sell and compete in world markets. This is one of the reasons why we believe that, rather than trying to go the unilateral route of U.S. legislation, it would be more desirable to seek an international agreement where the same rules with relation to corruption or bribery or fees to agents will be covered internationally so everyone will be working under the same ground rules and our people will not be disadvantaged.

Chairman MORGAN. Thank you, gentlemen.

The committee stands adjourned until 10 tomorrow morning.

[Whereupon, at 12:15 p.m., the committee adjourned, to reconvene at 10 a.m. Wednesday, June 9, 1976.]

EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

WEDNESDAY, JUNE 9, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C.

The committee met at 10:30 a.m. in room 2172, Rayburn House Office Building, Hon. Thomas E. Morgan (chairman of the committee) presiding.

Chairman MORGAN. Today the Committee on International Relations holds its second in a series of hearings on the operations of the Export Administration Act. In our opening session yesterday, we heard testimony from the Departments of State and Defense. Another agency involved in export controls is the Department of the Treasury.

Today we will be hearing the Honorable William E. Simon, Secretary of the Treasury.

Secretary Simon, welcome to the committee. I believe this is the first time you have appeared before us as Secretary of the Treasury since you assumed the Cabinet office. So, Mr. Secretary, you may proceed.

STATEMENT OF HON. WILLIAM E. SIMON, SECRETARY OF THE TREASURY

Secretary SIMON. Thank you very much, Mr. Chairman and gentlemen. I am delighted to have the opportunity to present the views of the administration on H.R. 11463.

I would also like to take this opportunity to review with you our concern over other legislative proposals that are now pending before the Congress.

Mr. Chairman, let me begin by stating unequivocally the administration's opposition to the boycott. We share the concerns underlying H.R. 11463—the Koch bill—and other proposed legislation. We believe, however, that the approach reflected in these proposals would be counterproductive to the resolution of the boycott problem.

In my presentation, I would like to provide you with the administration's reasons for believing the present U.S. legislation and regulations provide a forceful and balanced approach which best serves U.S. interests by meeting the challenge posed by the Arab boycott, while at the same time enabling us to progress toward a Middle East peace settlement.

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In so doing, I am aware that some people believe our approach to the problem of the Arab boycott has not been forceful enough and that our belief in the need for measured restraint has not been based on the weight of the evidence. In this regard, we clearly have a disagreement; for I believe that we have taken extensive steps in the past year to address the Arab boycott issue and that additional legislation now would be counterproductive to our shared desire to end the boycott.

In this regard, I believe it is important to understand that the policy that underlies the Arab boycott arose out of the state of beligerency that exists between Israel and the Arab nations. According to its governing principles, the Arab boycott of Israel is not based on discrimination against U.S. firms or citizens on ethnic or religious grounds.

The primary boycott, which dates from 1946, involves the Arab countries' refusal to do business with Israel. It was designed to prevent entry of certain products into Arab countries from territory now part of Israel.

The secondary boycott introduced in 1951 operates to prevent firms anywhere in the world from doing business in Arab countries or from entering into business undertakings with Arab firms if they have especially close economic ties with Israel, or if they contribute to the Israeli defense capability. It was designed to inhibit third parties from assisting Israel's economic and military development. Both aspects of the boycott are considered by the Arab League States to be legitimate acts of economic warfare.

MAJOR STEPS TO DEAL WITH THE ARAB BOYCOTT

At the outset, I would like to review some of the major steps that have been taken to deal both with respect to the boycott and with respect to discrimination. In February 1975, President Ford issued a clear statement that the United States will not tolerate discriminatory acts based on race, religion, or national origin.

The President followed this in 1975 with an announcement of a series of specific measures on discrimination:

He directed the heads of all departments and agencies to forbid any Federal agency in making selections for overseas assignments to take into account exclusionary policies of foreign governments based on race, religion, or national origin.

He instructed the Secretary of Labor to require Federal contractors and subcontractors not to discriminate in hiring or assignments because of any exclusionary policies of a foreign country and to inform the Department of State of any visa rejections based on such exclusionary policies.

He instructed the Secretary of Commerce to issue regulations under the Export Administration Act to prohibit U.S. exporters and related organizations from answering or complying in any way with boycott requests that would cause discrimination against U.S. citizens or firms on the basis of race, color, religion, sex, or national origin.

Also, in January 1976, the administration submitted legislation to prohibit a business enterprise from using economic means to coerce any person or entity to discriminate against any U.S. person or entity on the basis of race, color, religion, sex, age, or national origin.

In March 1976, the President signed into law the Equal Credit Opportunity Act, which amended the Consumer Credit Protection Act making it unlawful for any creditor to discriminate against any applicant with respect to a credit transaction on the basis of race, color, religion, national origin, sex, marital status, or age.

The Comptroller of the Currency, the Securities and Exchange Commission, and the Federal Home Loan Board have all issued statements to the institutions under their jurisdiction against discriminatory practices.

OTHER ACTIONS ON ARAB BOYCOTT

In recent months, the administration has also taken the following actions to make clear that it does not support boycotts of friendly countries.

In November 1975, the President instructed the Commerce Department to require U.S. firms to indicate whether or not they supply information on their dealings with Israel to Arab countries.

In December 1975, the Commerce Department announced that it would refuse to accept or circulate documents or information on trade opportunities obtained from materials known to contain boycott conditions.

The State Department instructed all foreign service posts not to forward any documents or information on trade opportunities obtained from documents or other materials which were known to contain such boycott provisions.

In December 1975 and January 1976, the Federal Reserve Board issued circulars to member banks warning them against discriminatory practices and reiterating the Board's opposition to adherence to the Arab boycott.

In January 1976, the Justice Department instituted the first civil action against a major U.S. firm for violation of antitrust laws arising out of boycott restrictions by Arab countries. The Justice Department has a continuing investigation in this area.

This record indicates clearly that the administration has not ignored the problem of the Arab boycott, but has taken vigorous action to address the issue. But equally important we have done so in a manner that would not be injurious to our broad, fundamental interests in the Middle East, or counterproductive to our objective of bringing about the liberalization and ultimate termination of Arab boycott practices.

PRESSURES FOR A "CONFRONTATIONAL ATTACK" ON BOYCOTT

Despite our efforts there has been considerable pressure on the administration to mount a confrontational attack on the Arab boycott. Each step we have taken has immediately been met with demands for additional action.

We have strongly opposed such confrontation and intend to continue to do so because we are convinced that such a course would fail to achieve its stated objectives. The ultimate effect of such an approach is to tell Arab nations that either they must eliminate the Arab boycott entirely, irrespective of a settlement in the Middle East, or cease doing business with American firms.

We have seen no evidence that such a policy would result in elimination of the boycott. In fact, we believe that the effect of such pressure would harden Arab attitudes and potentially destroy the progress we have already made.

The argument is made that the Arab world when faced with such a choice will recognize the importance of continued access to U.S. goods and services and therefore eliminate what they consider one of their principal weapons in the political struggle against the State of Israel. Unfortunately, this argument fails to reflect several basic facts.

The United States alone among industrial countries has a clearly established policy and program of opposition to foreign boycotts of friendly countries, including the boycott of Israel. Other countries already supply a full 80 percent of the goods and services imported by the Arab world.

There is no evidence that these nations are prepared to lose that $50 billion a year market or to jeopardize their stake in the rapidly expanding economies of the Arab nations. Further, there is precious little that the United States presently supplies to Arab nations that is not available from sources in other countries and they are eager to take our place.

The major Arab States have the funds and the will to incur any costs such a switch might entail. They see that the United States has frequently engaged in economic boycotts for political purposes; for example, in Cuba, Rhodesia, North Korea, and Vietnam, so they cannot accept the argument that they are not entitled to do the same.

BOYCOTT: ROOTS IN ARAB-ISRAELI CONFLICT

Mr. Chairman, I believe that we must face an essential and widely recognized fact. The Arab boycott has its roots in the broad Israel-Arab conflict and will best be resolved by dealing with the underlying conditions of that conflict.

For these and other reasons which I will mention, it is the position of the administration that no additional legislation is necessary or desirable at this time and that, in fact, new legislation would be detrimental to the totality of U.S. interests both here and in the Middle East.

Present U.S. policy and antiboycott measures already are quite effective. Further, a number of Arab governments are now negotiating or considering contracts with U.S. firms, notwithstanding the public commitment of these firms to maintain investment, licensing, or other special economic relationships with Israel.

Other U.S. firms are making some progress in working boycott clauses out of the various stages of their transactions; for example, contracts, letters of credit, and shipping instructions.

Although the pattern is not uniform as to company, transaction, or country this reflects a gradual easing of enforcement practices over the past 6 months.

A number of firms do business with both Israel and the Arab countries. Recently, a prominent U.S. business leader informed me that he had successfully concluded a commercial contract with an Arab country even though he maintains extensive ties with Israel.

The Arab countries, in fact, are considering the adoption of a standard policy of exemption from the boycott list any firms which make as significant a contribution to them as to Israel.

ADJOURNMENT FOR FLOOR VOTE

Chairman MORGAN. Mr. Secretary, we are going to suspend for 5 minutes while the Members answer this rollcall. We will be right back.

Secretary SIMON. All right, Mr. Chairman.

[A brief recess was taken.]

Chairman MORGAN. The committee will resume.

Mr. Secretary, we apologize. It seems this is the silly season over on the floor today. We had two rollcalls. One was a rollcall to go into a Committee of the Whole. Evidently, one Member of Congress is against revenue sharing and he is trying to draw consideration out a little bit.

So we are somewhat delayed. You may proceed.

NATIONAL PRACTICE ON BOYCOTT

Secretary SIMON. Thank you, sir. I will just kind of summarize the balance of my statement, Mr. Chairman, because you know I do have to get to another meeting at which I was supposed to be already, and leave Gerry Parsky behind.

Let me quickly go through the balance of my statement.

New legislation at this time could alter these favorable developments regarding enforcement practices. As you know, boycott rules are not uniformly enforced throughout the Arab world. Each country has the right to maintain its own national boycott legislation and has exercised this right.

Some countries have chosen not to follow stringent boycott practices. Other countries are continuously reviewing their policies to insure that any actions they take with respect to the boycott do not conflict with their own national interests.

I am concerned that new legislation could raise the issue to a higher political and emotional plane and thereby become a major negative factor as these countries address the advantages and disadvantages of applying a boycott as they review individual trade and investment proposals by U.S. firms.

Finally, legislation as evidenced by the several bills now pending, tends to involve an all or nothing approach, and fails to take into account the fact that a broad range of measures to deal with specific aspects of the boycott have already been adopted in the past year and a half.

On the next several pages, Mr. Chairman, I comment on the specific legislative proposals that are before you.

Mr. Chairman, we are determined to solve this difficult and complex problem. Any approach inherently involves a certain degree of subjective judgment. We believe that peace in the Middle East is the only ultimate answer. In the administration's view, heavyhanded measures which could result in direct confrontation with the Arab world will not work.

THE ADMINISTRATION'S APPROACH TO BOYCOTT

A far more constructive approach, we believe, is to work through our growing economic and political relations with Israel and the broad range of contacts which the executive branch and the regulatory agencies maintain with the U.S. business community to achieve progress on the boycott issue.

As administration witnesses have indicated in testimony during the past year, all of the agencies concerned with the boycott and discrimination issues have kept these important questions under continuing review and are prepared to take whatever steps they consider necessary to deal with those problems.

Many of the administration's actions have dealt with discrimination which, as the President said in a statement early last year, is totally contrary to the American tradition and repugnant to American principles. We have wanted to leave no misunderstanding here and abroad of our determination to eliminate discrimination on racial, religious, and other grounds.

At the same time, we have taken a number of steps as I have outlined to lessen the impact of boycott practices on American firms. In our contacts with the U.S. business community, we have also found that a number of firms are working on their own to eliminate boycott conditions from their commercial transactions or have announced that they will not comply with boycott requirements.

We consider these to be healthy signs from our business community, and in my view we should encourage this kind of movement rather than rush into coercive legislation that would be disruptive and damaging to the business community, cause widespread uncertainty in our commercial relations with the Middle East, and have the other adverse effects I have described.

In addition to these developments, our approaches to the Arab governments have brought a greater awareness of the economic cost to them of the boycott and a better understanding of the obstacle it imposes in the path of better relations with the United States.

CONVERSATIONS WITH ARAB LEADERS

I and my colleagues have had a number of conversations with the leaders of Arab governments including Saudi Arabia, Kuwait, Egypt, and Syria to make very clear to them our opposition to the boycott and all discriminatory practices.

We have also emphasized that the boycott is a significant impediment to greater U.S. private sector participation in the economic development of these countries. From my own conversations and reports that have come to my attention, I believe that Arab governments are beginning to recognize that this issue is prejudicial to their own economic interests.

The meeting of the United States-Saudi Arabia Joint Committee on Economic Cooperation last February provided an occasion for further discussion of these issues. I was able to make representations at the highest levels of the Saudi Arabian Government on the question of discrimination against Americans on racial, religious, and other

grounds, and the joint communique issued on February 29 contains a public affirmation by the Saudi Arabian Government disavowing such discrimination.

In fact, many Arab leaders have stated to us that it is against Islamic tenets to engage in such discrimination.

At the same time, Mr. Chairman, I would like to make clear that our opposition to legislation or other confrontation in dealing with the boycott problem in no way suggests a dimunition of our concern for Israel's welfare and our desire to help overcome obstacles to more rapid economic development and prosperity in that country.

We remain committed to a free and independent State of Israel. As you know, we have been, and will continue to be, generous in our aid to Israel. In addition, we have taken significant steps to assist Israel's economy in other ways.

THE UNITED STATES-ISRAEL JOINT COMMITTEE FOR INVESTMENT AND TRADE

As cochairman of the United States-Israel Joint Committee for Investment and Trade, I have met on numerous occasions with Israel's economic leadership and have worked out practical means to meet Israeli needs and to cooperate on a wide range of economic and commercial matters.

The Joint Committee has also been instrumental in helping organize the Israeli-United States Business Council which is now holding its inaugural joint session in Israel. We look to the Council to help develop closer relations between the two business communities and to make practical contributions to expansion of direct trade and investment ties.

The activities of the Joint Committee and the Business Council are constructive efforts in our continued support of Israel and are part of our broader bilateral economic program to help deal with all of the economic problems of the Middle East.

CONCLUSION OF SECRETARY SIMON'S STATEMENT

In conclusion, Mr. Chairman, I would note that we have had talks with Arab and Israeli leaders and with leaders of the American Jewish Community on boycott issues and on ways to eliminate racial, religious, and other discrimination. We have made the point that our basic goal must be to encourage progress toward peace.

It is our considered judgment that confrontational policies will not work to remove the boycott and could not undermine the delicate search for peace in that troubled region of the world.

The administration sought and continues to seek effective ways to eliminate this divisive policy and simultaneously achieve a just and lasting peace in the Middle East.

I can assure the committee that we will continue these efforts as well as our strong policy combatting any form of racial, religious, and other discrimination against and among Americans. The Congress and the administration share the goals of a just Middle East peace and an end to boycotts and discriminatory practices.

I hope we can agree that the legislative proposals now before the Congress are not the best measures to achieve these goals.

[The prepared statement of Hon. William E. Simon follows:]

PREPARED STATEMENT OF HON. WILLIAM E. SIMON, SECRETARY OF THE TREASURY

Mr. Chairman, I am pleased to have the opportunity to present the views of the Administration on H.R. 11463, proposed amendment to the Export Administration Act that deals with foreign boycotts of countries friendly to the United States, specifically the Arab boycott of Israel. I would also like to take this opportunity to review with you our concerns over other legislative proposals now pending before the Congress.

Mr. Chairman, let me begin by stating unequivocally the Administration's opposition to the boycott. We share the concerns underlying H.R. 11463 (the Koch Bill) and other proposed legislation. We believe, however, that the approach reflected in these proposals would be counterproductive to the resolution of the boycott problem. In my presentation, I would like to provide you with the Administration's reasons for believing that present U.S. legislation and regulations provide a forceful and balanced approach which best serves U.S. interests by meeting the challenge posed by the Arab boycott, while at the same time enabling us to progress toward a Middle East peace settlement.

In so doing, I am aware that some people believe our approach to the problem of the Arab boycott has not been forceful enough and that our belief in the need for measured restraint has not been based on the weight of evidence. In this regard, we clearly have a disagreement; for I believe that we have taken extensive steps in that past year to address the Arab boycott issue and that additional legislation now would be counterproductive to our shared desire to end the boycott.

In this regard, I believe it is important to understand that the policy that underlies the Arab boycott arose out of the state of belligerency that exists between Israel and the Arab nations. According to its governing principles, the Arab boycott of Israel is not based on discrimination against U.S. firms or citizens on ethnic or religious grounds. The primary boycott, which dates from 1946, involves the Arab countries' refusal to do business with Israel. It was designed to prevent entry of certain products into Arab countries from territory now part of Israel. The secondary boycott introduced in 1951, operates to prevent firms anywhere in the world from doing business in Arab countries or from entering into business undertakings with Arab firms if they have especially close economic ties with Israel, or if they contribute to the Israeli defense capability. It was designed to inhibit third parties from assisting in Israel's economic and military development. Both aspects of the boycott are considered by the Arab League States to be legitimate acts of economic warfare.

U.S. ACTION TO DEAL WITH DISCRIMINATION AND THE ARAB BOYCOTT

At the outset I would like to review some of the major steps that have been taken to deal both with respect to the boycott and with respect to discrimination.

In February 1975, President Ford issued a clear statement that the U.S. will not tolerate discriminatory acts based on race, religion or national origin.

The President followed this in November 1975 with an announcement of a series of specific measures on discrimination:

—He directed the heads of all departments and agencies to forbid any Federal agency in making selections for overseas assignments to take into account exclusionary policies of foreign governments based on race, religion or national origin.

—He instructed the Secretary of Labor to require Federal contractors and sub-contractors not to discriminate in hiring or assignments because of any exclusionary policies of a foreign country and to inform the Department of State of any visa rejections based on such exclusionary policies.

—He instructed the Secretary of Commerce to issue regulations under the Export Administration Act to prohibit U.S. exporters and related service organizations from answering or complying in any way with boycott requests that would cause discrimination against U.S. citizens or firms on the basis of race, color, religion, sex or national origin.

—Also, in January 1976, the Administration submitted legislation to prohibit a business enterprise from using economic means to coerce any person or entity to discriminate against any U.S. person or entity on the basis of race, color, religion, sex, age, or national origin.

—In March 1976, the President signed into law the Equal Credit Opportunity Act which amended the Consumer Credit Protection Act making it unlawful for any creditor to discriminate against any applicant with respect to a credit transaction on the basis of race, color, religion, national origin, sex, marital status or age.

—The Comptroller of the Currency, the Securities and Exchange Commission and the Federal Home Loan Board have all issued statements to the institutions under their jurisdiction against discriminatory practices.

In recent months, the Administration has also taken the following actions to make clear that it does not support boycotts of friendly countries:

1. In November 1975, the President instructed the Commerce Department to require U.S. firms to indicate whether or not they supply information on their dealings with Israel to Arab countries.

2. In December 1975, the Commerce Department announced that it would refuse to accept or circulate documents or information on trade opportunities obtained from materials known to contain boycott conditions.

3. The State Department instructed all Foreign Service posts not to forward any documents or information on trade opportunities obtained from documents or other materials which were known to contain such boycott provisions.

4. In December 1975 and January 1976, the Federal Reserve Board issued circulars to member banks warning them against discriminatory practices and reiterating the Board's opposition to adherence to the Arab boycott.

5. In January 1976, the Justice Department instituted the first civil action against a major U.S. firm for violation of anti-trust laws arising out of boycott restrictions by Arab countries. The Justice Department has a continuing investigation in this area.

This record indicates clearly that the Administration has not ignored the problem of the Arab boycott, but has taken vigorous action to address the issue. But equally important we have done so in a manner that would not be injurious to our broad, fundamental interests in the Middle East, or counterproductive to our objective of bringing about the liberalization and ultimate termination of Arab boycott practices.

Despite our efforts there has been considerable pressure on the Administration to mount a confrontational attack on the Arab boycott. Each step we have taken has immediately been met with demands for additional action.

We have strongly opposed such confrontation and intend to continue to do so because we are convinced that such a course would fail to achieve its stated objectives. The ultimate effect of such an approach is to tell Arab nations that either they must eliminate the Arab boycott entirely, irrespective of a settlement in the Middle East, or cease doing business with American firms. We have seen no evidence that such a policy would result in elimination of the boycott. In fact we believe that the effect of such pressure would harden Arab attitudes and potentially destroy the progress we have already made.

The argument is made that the Arab world when faced with such a choice will recognize the importance of continued access to U.S. goods and services and therefore eliminate what they consider one of their principal weapons in the political struggle against the State of Israel. Unfortunately, this argument fails to reflect several basic facts.

The U.S. alone among industrial countries has a clearly established policy and program of opposition to foreign boycotts of friendly countries, including the boycott of Israel. Other countries already supply a full 80 percent of the goods and services imported by the Arab world. There is no evidence that these nations are prepared to lose that $50 billion a year market or to jeopardize their stake in the rapidly expanding economies of the Arab nations. Further, there is precious little that the U.S. presently supplies to Arab nations that is not available from sources in other countries and they are eager to take our place. The major Arab states have the funds and the will to incur any costs such a switch might entail. They see that the U.S. has frequently engaged in economic

boycotts for political purposes, for example in Cuba, Rhodesia, North Korea and Viet Nam, so they cannot accept the argument that they are not entitled to do the same.

Mr. Chairman, I believe that we must face an essential and widely recognized fact. The Arab boycott has its roots in the broad Israel-Arab conflict and will best be resolved by dealing with the underlying conditions of that conflict.

PROBLEMS WITH A LEGISLATIVE APPROACH

For these and other reasons which I will mention, it is the position of the Administration that no additional legislation is necessary or desirable at this time and that in fact new legislation would be detrimental to the totality of U.S. interests both here and in the Middle East.

Present U.S. policy and anti-boycott measures already are quite effective. Further, a number of Arab governments are now negotiating or considering contracts with U.S. firms, notwithstanding the public commitment of these firms to maintain investment, licensing or other special economic relationships with Israel. Other U.S. firms are making some progress in working boycott clauses out of the various stages of their transactions, for example, contracts, letters of credit and shipping instructions. Although the pattern is not uniform as to company, transaction or country, this reflects a gradual easing of enforcement practices over the past six months.

A number of firms do business with both Israel and the Arab countries. Recently, a prominent U.S. business leader informed me that he had successfully concluded a commercial contract with an Arab country even though he maintains extensive ties with Israel. The Arab countries, in fact, are considering the adoption of a standard policy of exempting from the boycott list any firms which make as significant a contribution to them as to Israel.

New legislation at this time could alter these favorable developments regarding enforcement practices. As you know boycott rules are not uniformly enforced throughout the Arab world. Each country has the right to maintain its own national boycott legislation and has exercised this right. Some countries have chosen not to follow stringent boycott practices. Other countries are continuously reviewing their policies to ensure that any actions they take with respect to the boycott do not conflict with their own national interests. I am concerned that new legislation could raise the issue to a higher political and emotional plane and thereby become a major negative factor as these countries assess the advantages and disadvantages of applying a boycott as they review individual trade and investment proposals by U.S. firms.

Finally, legislation as evidenced by the several bills now pending, tends to involve an all or nothing approach, and fails to take into account the fact that a broad range of measures to deal with specific aspects of the boycott have already been adopted during the last year and a half.

OPPOSITION TO SPECIFIC LEGISLATION BEFORE THE CONGRESS

Mr. Chairman, I would like to turn to the specific legislation that is now before the Congress. I would like to discuss first the anti-boycott amendments contained in the Koch bill (H.R. 11463).

The provisions of these bills would: (1) mandate disclosure of required reports by U.S. firms to the Commerce Department of their responses to boycott-related requests; (2) prohibit U.S. firms from furnishing, pursuant to a boycott request, any information regarding the race, religion, sex or national origin of their or other firms' directors, officers, employees or shareholders; and (3) prohibit a refusal by a U.S. firm to deal with other U.S. firms pursuant to foreign boycott requirements or requests.

The Administration is concerned about each of these provisions.

With respect to disclosure of reports of U.S. firms, by publicizing information about their compliance with boycott requests, the disclosure provision will also make available information concerning non-compliance. This disclosure would give boycott officials an enforcement tool and make it more difficult for Arab business partners to tolerate de facto, non-compliance by U.S. businesses.

In addition, although a firm might disclose that it has indicated to Arab governments, for example, that it does not ship on Israeli vessels, or have other specified business dealings with Israel, such a disclosure would not and could not provide evidence as to whether this was the result of Arab pressures or

an autonomous, voluntary business decision. Firms wishing to avoid the risk of adverse domestic reaction to their disclosure might then decide it necessary to cease doing business in the Arab world, even though they would continue to have no business dealings with Israel.

With respect to the provision of these bills barring the furnishing of information on race, religion, sex or national origin, sought for boycott purposes, we believe that adequate and effective measures have been taken by the President and the respective agencies which make such a provision unnecessary.

With respect to the prohibition of refusal to deal among U.S. firms pursuant to foreign boycott requirements or requests, U.S. anti-trust laws already prohibit agreemets or conspiracies to engage in anti-competitive, boycott activities and the Justice Department has one suit pending in this area. It is not clear whether the refusal to deal provision in H.R. 11463 is intended to go beyond existing anti-trust laws. If the bill is intended to cover cases where a firm unilaterally—without any agreement—chose not to do business with another firm, it could in our view place the government and the courts in a very difficult situation of assessing the motives behind the choice of one's business associates or his other business decisions.

Even if the provisions could be altered to make them enforceable, other serious problems would remain. U.S. firms might well be able to meet the new legal requirements by sales and shipments via parties in third countries and thus avoid, for example, having to refuse use of ships or insurance companies which are on boycott lists. The provisions could also have the unintended and undesirable effect of encouraging some firms to make general use of non-boycotted suppliers in their worldwide trade. The reason for this would be a fear that if they used boycotted firms except for projects in boycotting countries, it might be considered prima facie evidence of refusal to deal. Finally, responsible enforcement would require extensive staffing and funding resources going well beyond the requirements for enforcement of existing Export Administration Act provisions directly related to national security interests.

OTHER LEGISLATIVE PROPOSALS

While the Stevenson-Williams and Koch Bills do not prohibit the provision of information to Arab governments by U.S. firms on their business dealings with Israel, H.R. 4967, the Bingham Bill, does impose this requirement. The Administration continues to oppose this bill both because it is inequitable and could well be self-defeating. We do not believe that Arab governments will abandon their policy of not dealing with firms which may be assisting Israel in a significant economic and/or military way simply because of a requirement that prohibits such firms from indicating either the existence or the extent of their relationship with Israel. There are a variety of other sources which Arab governments could use to attempt to develop such information. Many of these sources would probably be unreliable and could thus erroneously place U.S. firms on the Arab boycott list. Moreover, even firms which for reasons that have nothing to do with the boycott, have no business or commercial connections with Israel would be prohibited from acknowledging this fact.

Former Under Secretary of Commerce, James Baker, outlined in great detail the Administration's opposition to this bill before your Subcommittee on International Trade and Commerce on December 11, 1975, and I want to reiterate the Administration's continued opposition to this bill.

Mr. Chairman, we must proceed in this entire area with great caution not only because existing legislative proposals place us in a confrontational stance with the Arab nations but also because in at least some instances, they could seriously distort major economic forces in this country and around the world. Proposals such as the Ribicoff bill (S. 3138) would go so far as to alter a number of major tax provisions. This bill would restrict use of the foreign tax credit, the DISC provisions and the earned income exclusion of the Internal Revenue Code and tax on a current basis the earnings of foreign subsidiaries of taxpayers who participate in the Arab boycott. Such changes in our tax laws would significantly impact U.S. companies, employees and investors alike, while imposing new and onerous burdens on the Revenue Service that would impair its capacity to fulfill its basic function as a collector of tax revenue by creating an administrative nightmare.

Complicated and delicate questions of foreign policy are not susceptible to rigid solutions which are prescribed through the Internal Revenue Code. Such actions are contrary to the resolution of the boycott problem, contrary to the efficient administration of the fair laws and contrary to sound principles of tax policy. For these reasons Assistant Secretary Walker of the Treasury Department in a letter to Chairman Long of the Senate Finance Committee expanded at some length on the serious problems we have with this type of legislative approach. I would like to include a copy of that letter for the record.[1]

CONSTRUCTIVE APPROACH TO THE BOYCOTT QUESTION

Mr. Chairman, we are determined to solve this difficult and complex problem. Any approach inherently involves a certain degree of subjective judgment. We believe that peace in the Middle East is the only ultimate answer. In the Administration's view, heavy-handed measures which could result in direct confrontation with the Arab world will not work. A far more constructive approach, we believe, is to work through our growing economic and political relations with the Arab states as well as our close relations with Israel and the broad range of contacts which the Executive Branch and the regulatory agencies maintain with the U.S. business community to achieve progress on the boycott issue.

As Administration witnesses have indicated in testimony during the past year, all of the agencies concerned with the boycott and discrimination issues have kept these important questions under continuing review and are prepared to take whatever steps they consider necessary to deal with those problems.

Many of the Administration's actions have dealt with discrimination which, as the President said in a statement early last year, is totally contrary to the American tradition and repugnant to American principles. We have wanted to leave no misunderstanding here and abroad of our determination to eliminate discrimination on racial, religious and other grounds. At the same time, we have taken a number of steps as I have outlined to lessen the impact of boycott practices on American firms. In our contacts with the U.S. business community, we have also found that a number of firms are working on their own to eliminate boycott conditions from their commercial transactions or have announced that they will not comply with boycott requirements.

We consider these to be healthy signs from our business community, and in my view we should encourage this kind of movement rather than rush into coercive legislation that would be disruptive and damaging to the business community, cause widespread uncertainty in our commercial relations with the Middle East, and have the other adverse effects I have described.

In addition to these developments, our approaches to the Arab governments have brought a greater awareness of the economic cost to them of the boycott and a better understanding of the obstacle it imposes in the path of better relations with the U.S.

I and my colleagues have had a number of conversations with the leaders of Arab Governments including Saudi Arabia, Kuwait, Egypt and Syria to make very clear to them our opposition to the boycott and all discriminatory practices. We have also emphasized that the boycott is a significant impediment to greater U.S. private sector participation in the economic development of these countries. From my own conversations and reports that have come to my attention, I believe that Arab Governments are beginning to recognize that this issue is prejudicial to their own economic interests.

The meeting of the U.S.-Saudi Arabian Joint Commission on Economic Cooperation last February provided an occasion for further discussion of these issues. I was able to make representations at the highest levels of the Saudi Arabian Government on the question of discrimination against Americans on racial, religious and other grounds, and the Joint Communique issued on February 29 contains a public affirmation by the Saudi Arabian Government disavowing such discrimination. In fact, many Arab leaders have stated to us that it is against Islamic tenets to engage in such discrimination.

At the same time, Mr. Chairman, I would like to make clear that our opposition to legislation or other confrontation in dealing with the boycott problem in no

[1] See appendix 18, p. 802.

way suggests a dimunition of our concern for Israel's welfare and our desire to help overcome obstacles to more rapid economic development and prosperity in that country. We remain committed to a free and independent State of Israel. As you know, we have been, and will continue to be, generous in our aid to Israel. In addition, we have taken significant steps to assist Israel's economy in other ways. As Co-chairman of the U.S.-Israel Joint Committee for Investment and Trade, I have met on numerous occasions with Israel's economic leadership and have worked out practical means to meet Israeli needs and to cooperate on a wide range of economic and commercial matters.

The Joint Committee has also been instrumental in helping organize the Israel-U.S. Business Council which is now holding its inaugural joint session in Israel. We look to the Council to help develop closer relations between the two business communities and to make practice contributions to expansion of direct trade and investment ties. The activities of the Joint Committee and the Business Council are constructive efforts in our continued support of Israel and are part of our broader bilateral economic program to help deal with all of the economic problems of the Middle East.

In conclusion, Mr. Chairman, I would note that we have had talks with Arab and Israeli leaders and with leaders of the American Jewish community on boycott issues and on ways to eliminate racial, religious and other discrimination. We have made the point that our basic goal must be to encourage progress toward peace. It is our considered judgment that confrontational policies will not work to remove the boycott and could undermine the delicate search for peace in that troubled region of the world. The Administration sought and continues to seek effective ways to eliminate this divisive policy and simultaneously achieve a just and lasting peace in the Middle East.

I can assure the Committee that we will continue these efforts as well as our strong policy of combating any form of racial, religious and other discrimination against and among Americans. The Congress and the Administration share the goals of a just Middle East peace and an end to boycotts and discriminatory practices. I hope we can agree that the legislative proposals now before the Congress are not the best measures to achieve these goals.

Chairman MORGAN. Thank you, Mr. Secretary.

Secretary SIMON. Thank you, Mr. Chairman.

SECRETARY SIMON LEAVES HEARING

Chairman MORGAN. Mr. Secretary, I understand that you have to leave early. Assistant Secretary for International Affairs, Mr. Parsky is here and he will answer the questions for us, is that correct?

Secretary SIMON. Yes, sir, Mr. Chairman.

Chairman MORGAN. Well, thank you, Mr. Secretary. We know your other meeting is important and if you wish to leave we will proceed with the Assistant Secretary.

Secretary SIMON. Thank you very much.

ANTIBOYCOTT POLICIES

Chairman MORGAN. Mr. Secretary, what antiboycott policies should we, the United States, adopt that would not damage our economic interests? Are there any that we could adopt, in your opinion?

As you know, I have introduced at the administration's request a simple authorization to extend the Export Administration Act of 1969 for 3 years. If the bill is going to run the gauntlet of this committee and the House an antiboycott amendment is likely to be adopted.

So my question again is, are there any antiboycott policies that we could adopt in our markup.

STATEMENT OF HON. GERALD PARSKY, ASSISTANT SECRETARY OF THE TREASURY FOR INTERNATIONAL AFFAIRS

Mr. PARSKY. Well, Mr. Chairman, the thrust of our position as expressed by Secretary Simon is that we believe that it would be counterproductive to, in fact, enact any legislation at this time and we urge that the Congress not move legislatively. A number of steps have been taken and are continuing to be taken. We would be delighted to work with the Congress as we seek to adopt additional approaches, but we do not think that a legislative approach at this point in time would bring about an end to the boycott and, in fact, could be counterproductive to the kind of relationships we have tried to establish.

ANTIBOYCOTT AND BUSINESS IN THE MIDDLE EAST

Chairman MORGAN. The Secretary made a strong case for a simple extension because of the fact that American business would really be endangered if the antiboycott proposal by Congressman Koch is adopted, or some of the firm policies by some of the members of this committee who are drawing up amendments to this bill.

You feel that we would be in danger of losing a good deal of business in the Middle East?

Mr. PARSKY. Well, Mr. Chairman, I would like to say that it is the position of our administration that no amount of business of any form is worth sacrificing basic principles that are important and inherent in our system.

We object to, and will take any steps necessary to eliminate, all forms of discrimination, and I don't think any business is worth accepting any form of discrimination in this country.

At the same time, we want to see the boycott as a restrictive trade practice ended. We do believe that legislation would have an adverse effect on business that is done with the Arab countries. Different forms of legislation would affect them differently.

But the basic reason for our conclusion is that we do not feel that legislation would bring an end to the boycott and at the present time it would work in other directions. The size of business that is done with the Arab world obviously varies. The most recent figures that we have are that U.S. exports to the Arab countries are somewhere between $5 billion and $6 billion in 1975 and would approach the $10 billion range potentially before 1980.

Obviously, a negative impact on that trade would result in a negative impact on our balance of payments. Different pieces of legislation would affect that level of trade differently.

OTHER COUNTRIES AND THE BOYCOTT

Chairman MORGAN. Mr. Secretary, what have other countries done to deal with the boycott? Have industrial nations taken measures to counter the boycott?

Mr. PARSKY. Well, I think that the best general statement I can make, Mr. Chairman, is that very little has been done in other countries and one of the reasons that we feel that some of the legislative proposals that would either prohibit the supplying of information

or take other actions wouldn't be very effective, is that most of the activity would go elsewhere because other countries have not responded.

That doesn't mean that the United States shouldn't respond because other countries haven't responded.

Again, the basic conclusion that we have reached is that we don't feel that it would accomplish the objective.

HARM TO U.S. FIRMS FROM BOYCOTT

Chairman MORGAN. Have any U.S. firms in competing for contracts in the Middle East been harmed by the present boycott?

Mr. PARSKY. Well, there is no question that the boycott has served as a disruptive force in normal trading relationships between American business and the Middle East. There is no question about that.

We believe that progress is being made on minimizing the boycott and, in fact, a number of firms have indicated to us that doing business with Israel has not prevented them from, in fact, doing business with the Arab countries.

We see it as deterrent to normal relationships and as such we would like to see it ended. We believe, however, that that end will not be brought about until we, in fact, achieve peace in the Middle East.

Chairman MORGAN. Thank you, Mr. Secretary.

Mr. Lagomarsino.

EXTENT OF U.S. ECONOMIC BOYCOTTS

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

The administration often stresses, and Secretary Simon did the same this morning, that Arab States see the United States engaging in politically motivated economic boycotts of its own—Cuba, Rhodesia, North Vietnam, Cambodia, and so on and, therefore, the Arab leaders cannot accept the argument that they are not entitled to do the same, but I wonder if it really is the same?

Are the economic boycotts engaged in by the United States generally recognized by other nations as legitimate?

Mr. PARSKY. Well, I think that an important distinction does exist with respect to the boycott, per se, that the United States has practiced and the Arab boycott in that there are extensions of what I refer to as the primary boycott.

By that, I mean that not only do the Arab countries refuse to do business with Israel, but many don't do business with a firm in the United States that has a significant economic relationship or contributes significantly to the military capability of Israel. So that is the difference.

The point we are trying to make in mentioning this is that the opposition to the boycott, per se, which is embodied in our Export Administration Act and which we have expressed, is received by the Arab countries with some question because we have practiced primary boycotts in the past.

That is the point they made to us.

Mr. LAGOMARSINO. Our boycotts are primary, completely; we have no secondary boycotts?

Mr. PARSKY. There have been aspects of it in that firms with American directorates or significant American interests in other countries have also participated. I am not sure that would be purely secondary, but it is an extension.

Mr. LAGOMARSINO. I understand we do deny bunkering privileges to third country ships, so that is——

Mr. PARSKY. That is a further extension, yes, sir.

Mr. LAGOMARSINO. Somewhere between primary and secondary?

Mr. PARSKY. Yes.

EXTENT OF THE ARAB BOYCOTT

Mr. LAGOMARSINO. But, on the other hand, the Arab boycott is primary, secondary, and, I guess, tertiary, is it not?

Mr. PARSKY. The extent to which the boycott would require a U.S. company to refuse to deal with another U.S. company that could be classified as tertiary in nature.

In discussing this issue on our most recent trip in February to the Middle East, the Arab countries have made it clear to us that they do not require one firm not to do business with another firm, that the decision on who they do business with is theirs. We do have antitrust laws and the basis behind the suit against the Bechtel Corp. was on antitrust grounds that a refusal to deal by one company with another company potentially would violate our antitrust laws.

Mr. LAGOMARSINO. So they don't question that.

Mr. PARSKY. And the Arab countries would not question that.

Mr. LAGOMARSINO. Do any of the provisions of the proposed legislation before us attempt in any way to combat the primary aspect of the Arab embargo?

Mr. PARSKY. It is not my understanding that it would, Congressman. Most of the legislation that is before the Congress would treat either the question of discrimination, the question of refusal to deal, or the question of either making public information that is supplied or, in fact, prohibiting information from being supplied.

Mr. LAGOMARSINO. Primarily aimed at the secondary boycotts?

Mr. PARSKY. Yes.

PROPOSED DISCLOSURE PROVISIONS

Mr. LAGOMARSINO. With respect to the disclosure provisions which would publicize information about U.S. firms' compliance with boycott requests, wouldn't this give the Government a needed basis for accurately assessing the nature and extent of compliance, its economic impact on the United States?

Mr. PARSKY. The Commerce Department has required that, in fact, information on requests for compliance with the boycott be supplied to them. One of the questions before you, however, is whether or not we make public information or disclosures of information, and again our position, as I think was outlined in the testimony, is that it would not alleviate the problem in any way and could exacerbate the problem. That is the reason why we are recommending against it.

In discussing this issue with the Arab countries, they have made it clear to me that internal matters, whether it is legislation that would

be affecting refusal to deal by one company and another, or providing information is a matter for the United States to consider. It is not a matter that they feel is in their jurisdiction.

They expressed the explicit right to, in fact, engage in business activities with whomever they want, but they considered it an internal matter.

We concluded the kind of legislation that would make public or refuse to supply information would only confuse the problem and make it more difficult to deal with.

DISCLOSURE AND CONGRESSIONAL OVERSIGHT

Mr. LAGOMARSINO. What about the argument that disclosure is essential to the conduct of an effective congressional oversight?

Mr. PARSKY. Well, I believe that the Treasury Department, the Commerce Department, the entire administration has been more than willing to meet with the Congress and review with the Congress all the steps that we have been taking and supply the Congress with any information that is needed.

I know the Commerce Department has an ongoing communication with the Congress on this matter and I can say categorically we would be willing to work with the Congress in any way we can to make sure that you are adequately informed and that you, in fact, know exactly what steps are being taken.

Mr. LAGOMARSINO. Why does the administration oppose the provision that would bar furnishing information on color, religion, and national origin if, in fact, the administration opposed that?

Mr. PARSKY. Again as outlined in the statement, we have tried to look at the potential for legislation in terms of either whether it is going to assist in our objective, whether it is needed or whether or not it would be detrimental. With respect to the provision that you have indicated our conclusion has been that with respect to that information, it is not necessary at this point, that we have adequate legislation to deal with the question of discrimination, and that, in fact, this legislation isn't necessary at this point.

Mr. LAGOMARSINO. Thank you.

Chairman MORGAN. Mr. Zablocki.

ROLE OF THE TREASURY DEPARTMENT

Mr. ZABLOCKI. Thank you, Mr. Chairman.

Mr. Secretary, as I understand, the underlying issue in the presentation by the Secretary was that the administration has already taken actions on the issue of boycotts of friendly countries; that much of the legislation proposed is already a policy of the administration.

Is my interpretation correct, short of actual confrontations?

Mr. PARSKY. Yes, sir, that is correct.

Mr. ZABLOCKI. As the chairman has stated, he introduced a bill simply to authorize the extension of the Export Administration Act of 1963 and, as indicated, there will be obviously amendments hoping to improve the administration of the Export Control Act.

I fully realize that Treasury plays a minor role in export control, but nevertheless, the Treasury is a member of the Export Board of the

East-West Trade Review Board and sits in on the Export Board. Is that correct?

Mr. PARSKY. Yes, sir, Mr. Simon is the Chairman of the East-West Foreign Trade Board and is invited to attend meetings of the Export Administration Board.

Mr. ZABLOCKI. My question is whether Treasury, and Mr. Simon as Chairman of the Review Board, may have some recommendations which might be included in the new authorization act.

Do you have any suggestions?

Mr. PARSKY. I don't have anything as part of our remarks this morning.

Mr. ZABLOCKI. Can we expect something will be forwarded to the committee for consideration?

Mr. PARSKY. Certainly. We will be glad to supply you any additional comments that we felt would be applicable from the Treasury standpoint.[1]

Mr. ZABLOCKI. We would welcome them.

Chairman MORGAN. Mr. Hamilton.

CURRENT EFFECT OF THE BOYCOTT

Mr. HAMILTON. Mr. Secretary, what is the effect of the boycott today?

Mr. PARSKY. Well, the principal effect of the boycott, I believe is, No. 1, not to have Arab countries dealing with Israel and contributing to the economic development of Israel and, No. 2, to have certain business enterprises also not deal with Israel, so as to result or potentially result in a negative economic impact on the State of Israel.

Mr. HAMILTON. Now, what is your assessment of that negative impact? How great has it been?

Mr. PARSKY. That is very difficult to assess, Congressman. It is clear that a number of firms in the United States are not doing business with Israel. It is not clear to me how much of that is not being done out of a business decision not to do business. Many firms don't do business in the Middle East because of uncertainties. That is, it is difficult to assess how much is due to that or due to the boycott.

Mr. HAMILTON. What about the level of American goods and services going into Israel, say, in the last 5 years or so? Can you read anything in those statistics to suggest that the boycott is really having a crunch on Israel?

Mr. PARSKY. Congressman, I don't have the exact figures and I would be glad to supply them for the record. My recollection is, however, that those figures won't provide an adequate base for determining whether or not it was effective or not.

It certainly has not affected governmental support from the United States. The question is whether it has affected the support from our business community, and I will have to supply that. I don't believe it would be indicative of any negative impact.

"CONFRONTATIONAL" ANTIBOYCOTT PROPOSALS

Mr. HAMILTON. In response to some other questions, you have said that tougher antiboycott legislation would have an adverse effect, and

[1] See appendix 15, p. 794.

I think the Secretary mentioned that too. The word "confrontational" is used a number of times in the Secretary's statement.

We heard this same theme yesterday also from the witnesses. But precisely what would be those adverse effects and why is it confrontational?

Mr. PARSKY. Well, I think to understand that you have to understand how the Arab countries view the boycott. The Arab countries adopted the boycott as part of the Arab-Israeli conflict; as a political device used in the past by countries that have been in a state of hostility.

There had been a growing concern as to what the attitude of the United States was toward the Arab countries.

I think that we have made considerable progress in the last 2 years, especially in the time that I have been dealing with the Middle East, in bringing about a recognition that we are seeking peace and we are seeking peace in as evenhanded a way as possible.

Since the boycott is viewed by the Arab countries as a natural outgrowth of the hostility, a reaction or a confrontational legislative approach by the United States would also be treated as part of this political context.

Mr. HAMILTON. You mentioned a moment ago that the level of our exports to the Middle East is up to $5 or $6 billion annually and you projected it to go up to as high as $10 billion, I think, by 1980.

Would tougher antiboycott legislation jeopardize growth of those figures? Would it jeopardize even the $5 or $6 billion export level?

Mr. PARSKY. I certainly think it would potentially place that in jeopardy. The reason I didn't mention that at first, as I think I said in response to the chairman, is that the major thrust of our concern is not with the business, but whether or not we are going to be able to bring about a resolution of the conflict in the Middle East and a resolution of the boycott.

But clearly there would be a potential negative economic impact on this growing business in the Middle East.

IMPACT ON SAUDI ARABIA

Mr. HAMILTON. Would the principal impact fall on Saudi Arabia? Is that the country we are really most concerned about here?

Mr. PARSKY. Well, I haven't singled out any one particular country. I know that Saudi Arabia has been and continues to be friendly to the United States, strongly pro-American, and has been an important moderating force in the Middle East, but I think our trading relationships with all of the Arab countries have increased significantly.

Saudi Arabia obviously has the largest potential because they have the largest development program underway.

THE BINGHAM AMENDMENT

Mr. HAMILTON. One amendment that is proposed, I think, by my colleague, Congressman Bingham, would be to make it unlawful for a U.S. company to comply with a boycott request. I assume that you oppose that kind of an amendment. Would you comment as to why you oppose that specific kind of amendment and what you think its impact might be?

Mr. PARSKY. Well, we are opposed to that, Congressman, and I think the assumption behind such a provision is that it will put an end to the application of secondary boycotts to U.S. concerns.

We are convinced that this would not be the case, that the boycott is, as I mentioned, imposed worldwide. No other country that I am aware of has legislated against it, and since the Arab countries consider it to be a legitimate act of economic warfare they would not eliminate it in response to a refusal on the part of American firms.

The result would be either to try to seek information about these firms through other sources or, in fact, turn the business to other countries.

Mr. HAMILTON. One other question, if I may, Mr. Chairman.

Are there currently any other boycott situations in the world that would be affected by strong antiboycott language? For example, would it have any impact on United States-South African economic relations, or, as we look at this, are we thinking its impact is only going to fall in the Middle East?

Mr. PARSKY. Well, I think that the predominant if not total thrust would be on the Middle East.

Mr. HAMILTON. Thank you very much.

Chairman MORGAN. Mr. Winn.

THE LAW, BUSINESS, AND ANTIBOYCOTT

Mr. WINN. Thank you, Mr. Chairman.

Mr. Secretary, with respect to the refusal to deal provisions, is it not the Government's business to assess the motivations behind business choices if they are dictated by racial or religious interference?

Mr. PARSKY. We have laws, Congressman, that are aimed at preventing any form of discrimination based on race, religion, sex, or national origin, and I think Secretary Simon indicated we would strongly support the enforcement of those laws.

Mr. WINN. Does not some of the proposed legislation clearly leave the enforcement in the hands of the Executive rather than create a private right of action in the sensitive area?

Mr. PARSKY. Well, as I indicated, the grounds for our opposition to the various pieces of legislation in this area vary. In some instances, it is because we feel the particular legislation would be counterproductive. In other instances we feel there is adequate legislation in existence. In other instances it is because we feel that the legislation would be disruptive.

With respect to the laws that would be proposed to combat religious or other forms of discrimination, we believe that there is adequate protection in the law already.

Mr. WINN. You won't make any additional suggestions other than what is in the law?

Mr. PARSKY. Well, Congressman, at this point we believe that the law is adequate.

Mr. WINN. Adequate? Thank you.

Thank you, Mr. Chairman.

Chairman MORGAN. Mr. Wolff.

ENFORCEMENT OF EXISTING LAWS

Mr. WOLFF. Thank you, Mr. Chairman.

I would like to continue with the colloquy that has just taken place. You say that we have existing laws that cover the question of discrimination. Tell me,why aren't those laws being enforced?

Mr. PARSKY. Well, it was my understanding, Congressman, that they are being enforced. If they are not, we ought to take steps to make sure they are.

Mr. WOLFF. You have jurisdiction over banks, in addition to the Comptroller of the Currency. You have jurisdiction over international trade. There are several avenues for enforcement by the Treasury Department.

Mr. PARSKY. Well, we don't have jurisdiction from an enforcement standpoint.

Mr. WOLFF. Have you then turned over any of these other than the one case mentioned to the Department of Justice?

Mr. PARSKY. Congressman, the Treasury Department does not have enforcement responsibility. Any instances that have been brought to our attention of any form of religious discrimination we would turn over.

Mr. WOLFF. Are you saying you don't know about any instances then?

Mr. PARSKY. We don't have responsibility for that. To the extent that any are brought to our attention, we do turn them over.

Mr. WOLFF. Don't you have the list that exists today of the Arab boycott list?

Mr. PARSKY. Yes, sir, but I thought we were talking about religious discrimination.

Mr. WOLFF. There is a question of religious discrimination, country of origin, racial discrimination, and the like, within the proscription of the Arab boycott.

Mr. PARSKY. Well, I tried to and I think Secretary Simon tried to indicate that there has been some merging of two issues. We have tried to separate the two, the boycott practices and policy articulated by the Arab countries, and as they have indicated they have sought to enforce it free from discrimination based on race, origin or other grounds. We have separated the two issues not because we feel that we want to support one or reject the other, but basically because we feel there are two avenues to seeking an elimination of each.

ARAB STATES EMBARGO ON UNITED STATES

Mr. WOLFF. Let's get to another point. There always exists the question of reinstatement of the embargo, by the Arab States upon the United States.

Have you discussed this at all? Have you any contingency plans in the event that is reinstated?

Mr. PARSKY. We have discussed the question of the embargo. Both Secretary Simon and I were very actively involved during the time of the last embargo. We have had absolutely no indication whatsoever

that any of the Arab countries are contemplating or have any desire to impose such an embargo.

Mr. WOLFF. Didn't Shiek Yamani say something about the fact that oil is a weapon, an economic weapon in warfare? He said that about, I believe, 6 to 9 months ago.

Mr. PARSKY. Well, as I was going to say, the imposition of the embargo was treated, is treated by the Arab countries as a political decision. There is no question about that. It was imposed because of the developments that were taking place in the Middle East, not because of a desire to be disruptive to the economies of the world, but because of the political developments there.

And I certainly would not rule out the possibility of political events triggering it again. I don't mean to suggest the contrary. In fact, I think the fact that the United States has increased its energy or oil reliance on the Arab countries is a bad sign for us and, in fact, we should be getting on with the business of developing alternative sources. But I have had no indication whatsoever in any of my recent discussions with Yamani or any of the other leaders in the Arab world that they are contemplating any imposition of the embargo.

With respect to the other question that you asked, as far as contingency plans, we have taken steps both internationally and domestically to attempt to bring us to a better position to address the situation of the embargo. Internationally we have signed an emergency sharing agreement with other major consuming countries that call on the sharing of supplies in the event of an emergency such as embargo. Domestically, obviously our 1973 experience, which I don't look at with any great pleasure, since I was a part of it, does give us a better understanding of how to cope with the embargo.

But the critical question, Congressman, is that we still have not taken the necessary steps in order to bring us to a position of being invulnerable to a cut-off in supply.

Chairman MORGAN. Time has expired.

Mr. Bingham.

SUGGESTED MODIFICATIONS IN SECRETARY SIMON'S STATEMENT

Mr. BINGHAM. Thank you, Mr. Chairman.

Mr. Secretary, first I would just like to point to two statements in Secretary Simon's testimony which I think require some modification.

On page 4 he says:

> The ultimate effect of such an approach is to tell Arab nations that either they must eliminate the Arab boycott entirely, irrespective of settlement in the Middle East, or cease doing business with American firms.

My quarrel with the statement is that the effort to prohibit American firms from cooperating with the boycott is not directed at the primary boycott of Israel, and to that extent the statement is oversimplified, as I think you would agree.

Mr. PARSKY. Well, the statement, Congressman, was not just meant to refer to actions that are being contemplated with respect to either the secondary boycott or supplying of information, but it makes reference to that fact that there are a number of people that would want to confront the entire boycott per se.

That is what the statement was meant to refer to.

Mr. BINGHAM. Nobody that I know of in the Congress is trying at this point to take legislative action which would in any way affect the Arab primary boycott of Israel, that is, the Arab refusal to do business directly with Israel or with Israeli firms.

Mr. PARSKY. Perhaps we should have made it clear that we were not just referring to the Congress at this point. It wasn't meant to do that.

Mr. BINGHAM. Well our quarrel is with the secondary boycott.

Mr. PARSKY. I understand that.

Mr. BINGHAM. And the tertiary boycott and not at this point with the primary boycott.

Mr. PARSKY. I understand.

Mr. BINGHAM. My second point is related to the matter raised by Mr. Lagomarsino. On page 5, the Secretary said:

> The Arabs see that the United States has frequently engaged in economic boycotts for political purposes, for example, in Cuba, Rhodesia, North Korea, Viet Nam, et cetera, so they cannot accept the argument they are not entitled to do the same.

Again, with slight exceptions those boycotts have been primary boycotts and not secondary boycotts, right?

Mr. PARSKY. Yes; that is correct.

THE U.S. LAW AND BOYCOTTS

Mr. BINGHAM. Let me ask you, is it unlawful under the administration's present regulations or under the law as you read it for one American company to refuse to do business with another American company pursuant to a boycott request?

Mr. PARSKY. I believe that the antitrust laws potentially could apply to that situation. When I say it is illegal, antitrust action would have to be taken and sustained, but I think there is provision in the law for the Government to, in fact, step into such a situation.

Mr. BINGHAM. Wouldn't it be better to make that absolutely explicit in the law?

Mr. PARSKY. Well, as we have indicated, we believe the Justice Department has adequate authority and has an investigation under way, and we feel that legislation along those lines at this point should not be undertaken.

Mr. BINGHAM. Well, in this particular case where you say that it is against the law, that is your interpretation. I can't see how you can argue that we shouldn't make it perfectly clear that it is against the law.

Mr. PARSKY. Well, the antitrust laws already prohibit agreements or conspiracies.

BOYCOTT AND THE ANTITRUST LAWS

Mr. BINGHAM. The Bechtel Company is hotly litigating that question, and it is going to take probably years to settle it, so that in this particular instance you are arguing that what is U.S. interpretation of the law, Government interpretation of the law, should not be clarified by what would really amount to a technical amendment.

Mr. PARSKY. Well, Congressman, as I think we point out in our prepared text, if the provision in the bill that deals with this question is intended to go as far as the antitrust laws now go, but embody it, that is one question, and with respect to that I would say that the antitrust laws are adequate.

If it intends to go beyond it, namely, if it intends to cover cases where a firm unilaterally, without any agreement or any conspiracy, but unilaterally chooses not to do business with another firm, then I think it would place us in the untenable position of trying to assess motives behind the choice of one's doing business. And we would be opposed to that.

Mr. BINGHAM. Let's pass on to the next one.

Is it unlawful now for an American company to pay bribes to the Arab boycott organization to be removed from the blacklist?

Mr. PARSKY. Is it unlawful to pay bribes?

Mr. BINGHAM. To be removed from the blacklist.

Mr. PARSKY. I don't believe it is unlawful in this country now to make a payment. It is not a crime, or unlawful, in fact, to make a payment abroad, and so I don't think the motives behind it would make a determination one way or the other.

There are some laws that the SEC enforces and IRS enforces that would affect payments abroad of any sort and such payments under certain circumstances would have to be disclosed.

Chairman MORGAN. Time has expired.

Mr. Solarz.

AMERICAN FIRMS ON THE BOYCOTT LIST

Mr. SOLARZ. Thank you, Mr. Chairman.

Could you tell us how many American firms are on the boycott list? Do we know that?

Mr. PARSKY. Well, I don't have the exact number. The boycott list in the past has certainly been made a matter of public record. I can supply to the committee the best information that we have. The Commerce Department has made this available.

I would indicate that firms on and off the list vary considerably and at times it is difficult to tell how many are on and how many are off.

Mr. SOLARZ. Do you have any idea roughly how many are on now? You presumably deal with this problem, I would think you should know. Do you know or don't you know?

Mr. PARSKY. I don't have the number.

Mr. SOLARZ. Could you find it out and supply it for the record?

Mr. PARSKY. Yes.

[The information appears on p. 76.]

Mr. SOLARZ. How large is the volume of our trade with those Arab countries that participate in the Arab boycott?

Mr. PARSKY. I think it amounts to somewhere between $41/2 and $5 billion.

Mr. SOLARZ. That excludes any government-to-government sales?

Mr. PARSKY. Yes, sir.

Mr. SOLARZ. So we are talking about $41/2 to $5 billion.

Does the Arab boycott apply only to American exports or does it apply to American firms that attempt to import from the Arab countries?

Mr. PARSKY. It applies to doing business in any way.

Mr. SOLARZ. So it would cover both imports and exports. Does this $4½ to $5 billion figure cover both?

Mr. PARSKY. No. That just covers U.S. exports to the Arab countries. We import, as you know, a considerable amount of oil and that wouldn't be included.

OIL COMPANIES AND THE BOYCOTT LIST

Mr. SOLARZ. None of the companies that import oil from the Arab countries—I would assume—are on the boycott list?

Mr. PARSKY. Yes, sir.

Mr. SOLARZ. And there is no risk they would be put there, I would imagine. So we are talking about $4¼ to $5 billion.

Mr. PARSKY. In 1975 I said the potential is about $10 billion.

Mr. SOLARZ. Which appears to be a substantial amount of money. What percentage of the gross national product is that, do you know?

Mr. PARSKY. I don't know what that is; 1½ percent, something like that.

Mr. SOLARZ. Less than that, I should think.

Mr. PARSKY. Less than 1 percent? All right.

Mr. SOLARZ. Do you think that less than 1 percent of our GNP is a heavy price to pay for reaffirming our principle in terms of the economic impact which this legislation might have, assuming that all of this trade were lost to us as a result?

Mr. PARSKY. Congressman, I thought I had made clear, and I would like to repeat it, the reason that I didn't use the argument with respect to business is that I feel strongly, and it is the position of this administration, that no business, no business, with any country, or anywhere, is worth sacrificing our principles, and no business is worth accepting any form of discrimination.

I didn't mean to suggest that.

The principal thrust of our argument is that with respect to the boycott and with respect to discrimination we want to see it ended. We don't believe that legislative approaches will bring about an end.

THE BECHTEL CASE

Mr. SOLARZ. I gather that was the thrust of your testimony. Let me ask you this. To your knowledge, have any of the Arab countries who participated in the boycott insisted that American firms, as a condition of not being put on the boycott list, refrain from doing business with other American firms on the boycott list, or have they limited their demands to limitations on trade with Israel itself?

Mr. PARSKY. The basis for the Bechtel suit, Congressman, is that, in fact, that has taken place. In discussing the issue with the Arab countries, they have indicated that they do not impose those kinds of requirements, that, in fact, they may refuse to do business with that third company, but that is a decision they would make.

They wouldn't tell an American firm not to do business with the other firm.

Mr. SOLARZ. Would any American firm, to your knowledge, be put on the boycott list if it did business not with Israel but with another American firm that did do business with Israel?

Mr. PARSKY. Not to my knowledge.

Mr. SOLARZ. No efforts along those lines, to your knowledge, have been made by the countries participating in the boycott?

Mr. PARSKY. Not to my knowledge.

U.S. CORPS OF ENGINEERS ACTIVITIES IN MIDDLE EAST

Mr. SOLARZ. Isn't there something of an inconsistency in the boycott in the sense that they apparently have no reluctance to do business with the U.S Government or its agencies like the Corps of Engineers, which obviously have substantial amounts of economic work with Israel, but they apparently refrain from doing business with private corporations whose volume of trade with Israel is far less than what our own Government has? Has that sort of contradiction ever been put to them in your discussions?

Mr. PARSKY. That is a contradiction, Congressman, and I would say that inherent in the contradiction is one way in which I think the boycott is being eased, namely, that many of the Arab countries are assessing the situation in terms of the benefits that flow to them and if they can adequately assure themselves that the benefits that flow to them from dealing with any entity, whether it be the Government or a firm, are equal or in excess to the benefits that flow to Israel they would accept it, and that in fact is taking place.

ANTIBOYCOTT PROVISION ON ARAB OIL TO UNITED STATES

Mr. SOLARZ. One final question, and that is what would your reaction be to the proposal that in the event the Arab oil-producing countries reimpose an embargo on oil to our country, that we might automatically impose an embargo on continued shipments of American arms to those Arab countries that were getting them until such time as the embargo on oil were eliminated. In other words, writing into law a provision not necessarily specifically referring to the oil situation—but say to critical commodities—whereby as a matter of law we would be obligated to embargo the sale of American arms or military training to countries that embargoed critical commodities to us. What would be the impact of such a provision, do you think?

Mr. PARSKY. Well, I would be opposed to such a provision being placed in the law because I believe that the circumstances surrounding the oil embargo were very complex ones that were related to political developments that take place in the Middle East. Our decisions on military sales to other countries are decisions that are made to achieve a balance in the Middle East. I am opposing a restriction on military sales in response to an action relating to what is happening or may be happening in that part of the world potentially. This could be very destructive.

If in fact we made the decision that we should do that with some degree of flexibility, we have the authority to do that without making it in fact a legislative requirement.

EMBARGO: WEAPONS AND OIL

Mr. SOLARZ. Did we embargo the sale of American weapons to any of the oil-producing countries in 1973 when they established the embargo on oil to us?

Mr. PARSKY. No.

Mr. SOLARZ. Do you think we ought to sell military weapons to countries that are denying us critical commodities that are essential to the functioning of our own economy?

Mr. PARSKY. Well, Congressman, as I said, I think the embargo was treated as a political decision based on developments that were taking place in the Middle East and that a reaction on the part of the United States at that point in time to refrain from selling military equipment we believe would have been counterproductive to our attempt to achieve peace in that part of the world.

Mr. SOLARZ. Thank you, Mr. Chairman.

Chairman MORGAN. Mr. Gilman.

CURRENT UNITED STATES-ARAB TRADE LEVELS

Mr. GILMAN. Thank you, Mr. Chairman.

Would you be able to tell us, Mr. Parsky, about how much trade there has been by U.S. firms with Arab nations in 1975? I know we have had several figures presented to the committee.

Mr. PARSKY. Well, I believe that the figure is somewhere between $4½ and $5 billion of exports from U.S. firms to the Arab countries. I will supply you for the record our exact statement and I would also be willing to supply you with a country breakdown.

Mr. GILMAN. Mr. Chairman, with your permission I request that that information be inserted at this point in the record.

Chairman MORGAN. Without objection, so ordered.[1]

ACTIVITIES OF MULTINATIONAL CORPORATIONS

Mr. GILMAN. Are the activities of our multinationals forcing business into our multinational subsidiaries?

Mr. PARSKY. I am not sure I follow the thrust of the question.

Mr. GILMAN. There has been some report that as a result of the Arab boycott a great deal of the business of the multinationals is being diverted to their subsidiaries in other countries. Is this occurring?

Mr. PARSKY. Well, I don't have an accurate assessment of that. I would be glad to attempt to find out and supply it to you, but I don't believe that in fact there has been a tremendous influx of activity to the subsidiaries.

[1] The information, subsequently submitted, appears on p. 76.

Mr. GILMAN. On page 5 of the Secretary's testimony he stated that a number of firms do business with both Israel and the Arab countries and then went on to tell us how a prominent leader had informed him of that arrangement.

Can you tell us a little more about how our firms are managing to do business with both Israel and the Arab nations?

Mr. PARSKY. The principal way in which that is happening, Congressman, is that these firms are demonstrating to the Arab countries that the benefits that flow to them outweigh the benefits that may flow to Israel and that gradually through the process of developing a relationship, countries are in fact accepting such business and, as I said, we believe this is increasing in numbers.

Mr. GILMAN. Do we have any idea of the extensiveness of such an arrangement?

Mr. PARSKY. I don't. I would be glad to try to see if the Commerce Department, which again keeps the running account, we cited only as an illustration and what we believe is an accurate general principle. To the extent that we have the information in the Treasury Department, I would be glad to supply it.

COMMERCIAL AND DEFENSE TRANSACTIONS

Mr. GILMAN. Is there a difference of policy between commercial transactions and defense transactions with regard to the Arab boycott?

Mr. PARSKY. Well, there are certain actions that the U.S. Government has taken, which we outlined with respect to the distribution of bids or distribution of other requests that would apply to military transactions as well as other Government procurement policies. To that extent there is a difference.

Mr. GILMAN. With regard to the Arab policy, is there a difference between defense contracts and commercial transactions?

Mr. PARSKY. I don't believe so.

Mr. GILMAN. You have taken the approach that these legislative proposals with regard to the Arab boycott would be counterproductive and would be confrontational. What is the rationale for believing that these would be confrontational?

Mr. PARSKY. Well, the principal rationale is having had extensive contacts and discussions with the leaders in the Arab world; we feel that we have some understanding of how they view the boycott, how they feel it should or has been practiced, and how they would treat and react to legislative proposals aimed at that. It is an assessment. It is a judgment, as I think Secretary Simon indicated, we are dealing with a matter that is judgmental and we have concluded that legislative proposals at this point in time would not be productive toward the end we want.

Mr. GILMAN. That is a departmental judgment then, I take it?

Mr. PARSKY. An administration judgment.

Mr. GILMAN. Thank you.
Thank you, Mr. Chairman.
Chairman MORGAN. Mr. Rosenthal.

A "PICK AND CHOOSE" BOYCOTT

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Mr. Secretary, I think I will use my 5 minutes, or at least as much as the chairman graciously permits, to comment on what I consider to be a rather offensive and disingenuous statement by Mr. Simon. It won't be necessary for you to comment or answer any questions since I will use most of this time to discuss this wholly inadequate statement.

On page 2, in the first paragraph, the Secretary states:

> The secondary boycott introduced in 1951, operates to prevent firms anywhere in the world from doing business in Arab countries or from entering into business undertakings with Arab firms if they have especially close economic ties with Israel, or if they contribute to the Israeli defense capability.

The fact is that many U.S. defense contractors which contribute significantly to the Israeli defense capability are not on the boycott list because the Arabs want to use those defense capabilities for their own purposes. In other words, the Arabs pick and choose; there is little principle involved in which companies are blacklisted. Indeed, many of the 1,500 American companies on the boycott list have no business with Israel or have not in a long period of time done business with Israel. In the latter group is General Tire and Rubber, which had to hire a mercenary fixer to try to get its name off the list as reported in Fortune Magazine. This only affirms that the boycott is arbritary if not extortionary in impact.

At the top of page 5, Mr. Simon testifies that congressional action to prohibit compliance with secondary boycotts could very well jeopardize the $5 billion which Americans annually sell to Arab States.

TESTIMONY OF THE MORGAN GUARANTY BANK

Yesterday morning, the Morgan Guaranty Bank testified before a subcommittee which I chair that 24 letters of credit had been submitted to their bank containing offensive boycott clauses. When Morgan Guaranty said they wouldn't act favorably on those letters of credit, 23 of them came back with the offensive language stricken. In other words, these importers in the Arab countries were willing to push for boycott compliance until they felt some resistance.

But when Morgan Guaranty said they wouldn't comply with these offensive conditions in letters of credit, the Arabs would rather remove the conditions than forego the business.

And so in my judgment it is a myth, it is a fiction, to say that we would lose the Arab markets if we vigorously and consistently enforced stated U.S. policy against the boycott of American companies. Opposition to the boycott should become a national responsibility so that individual American companies do not have to buy their way off the blacklist.

I also find highly irresponsible the following argument from page 5 of the Secretary's statement:

> They [the Arabs] see the United States has frequently engaged in economic boycotts for political purposes, for example in Cuba, Rhodesia, North Korea, and Vietnam, so they cannot accept the argument they are not entitled to do the same.

There is little question that nations can engage in primary boycotts; it has been done for thousands of years. If Arabs refuse to deal with Israeli firms, that is their concern. Similarly, the U.S. boycotts of Cuba, Rhodesia, North Korea, and Vietnam were primary boycotts and involved solely these countries and the United States. But the Arab boycott of American companies goes well beyond these precedents to involve innocent third parties. We never told British companies that they could not buy Cuban cigars. Yet the Arbs are telling American businesses that they cannot purchase goods from Israel.

In the next paragraph, Secretary Simon says:

> Other U.S. firms are making some progress in working boycott clauses out of the various stages of their transactions, for example, contracts, letter of credit, and shipping instructions.

Why in Heaven's name leave enforcement of U.S. policy clearly set forth in the Export Administration Act and reaffirmed by the President last November to individual firms to barter and bargain and to have to hire agents to buy themselves off the list. U.S. firms ought to be protected by U.S. policy. The only way to do that and equalize the burden of this type of nefarious boycott is enact strong laws that deal with the situation.

Further down on page 5, the Secretary says:

> The Arab countries, in fact, are considering the adoption of a standard policy of exemption from the boycott list any firms which makes as significant a contribution to them as to Israel.

This amounts simply to bribery and extortion of American companies to do $10 worth of business with Israel, these American firms are extorted into doing $10 worth of business with the Arabs.

IBM and Hilton Hotels can comply with these conditions but what small exporter in the United States can meet that kind of requirement?

The secretary, I respectfully suggest, is saying to American exporters that they have to deal with extortionists to get off the blacklist and that they don't have the U.S. Government to protect them.

On page 10, the Secretary says:

> From my own conversations and reports that have come to my attention, I believe the Arab Governments are beginning to recognize that this issue, the boycott, is prejudicial to their own economic interest.

Why then does the U.S. continue to acquiesce in the boycott? Why don't we have a firm line of resistance so that all American companies receive equal treatment in dealing with Mideastern countries?

Moreover, the Secretary's statement is inconsistent with the argument that prohibiting compliance would cost business.

A LAW: "THE BOYCOTT WOULD FOLD"

Mr. Secretary, my own judgment is that if this Congress enacted a law outlawing the boycott at the secondary and tertiary level, the boycott would fold.

I am really not interested in how the boycott affects our ally Israel although I believe it has a serious adverse impact. I am more troubled by the detrimental economic, social, and philosophical effect upon U.S. companies. The kind of rhetoric you and the Secretary have been using—we will work it out, we will deal with it privately, let each company pick and choose—is antithetical to the American way of doing business.

It is the responsibility of this committee, this Congress, to end the boycott of American firms and enact laws which say—

This boycott by outside forces is repugnant to the principles and interests of the United States of America.

I yield back the balance of my time.

REPORT FROM HOUSE INTERSTATE AND FOREIGN COMMERCE OVERSIGHT COMMITTEE

Chairman MORGAN. The Chair would like to bring to the members' attention a report before them which contains preliminary findings of the House Interstate and Foreign Commerce Oversight Committee on the boycott, and without objection, we are going to make this a permanent part of the record.

[The letter referred to follows:]

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., May 6, 1976.

HON. THOMAS MORGAN,
Chairman, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the Subcommittee on Oversight and Investigations, Committee on Interstate and Foreign Commerce, is currently investigating the Arab trade boycott against Israel and other restrictive trade practices imposed on United States commerce by foreign governments, corporations or citizens. In particular, we are seeking to evaluate the impact of these practices on American commerce, to ascertain the effectiveness of Federal laws related to the boycott and whether they are being enforced, as well as to determine whether new law is needed. In this regard, some of our preliminary findings may be of value to the members of the House Committee on International Relations as you consider various amendments to the Export Administration Act.

On December 8, 1975, the Subcommittee received via subpoena approximately 12,000 reports which were filed pursuant to the Export Administration Act (50 U.S.C. App. 2402) with the Department of Commerce by American exporters between July 1, 1970 and December 5, 1975 to describe requests received to participate in boycotts or other restrictive trade practices imposed by countries friendly to the United States against other countries friendly to the United States. Subcommittee staff reviewed all of these reports and systematically recorded and computerized about two dozen different items of data from each report filed between January 1, 1974 and December 5, 1975.

On February 17, 1976, the Subcommittee obtained a set of approximately 9,000 Export Administration Act reports filed for boycott requests received between December 5 and December 31, 1975. Incidentally, I believe the facts that there were such a large number of report documents filed during the last three weeks of 1975 can in large part be attributed to increased publicity about both the Arab trade boycott and congressional concerns about the boycott, as well as a Commerce Department regulation which went into effect December 1, 1975 requiring that boycott reports be filed by banks, insurance companies, and freight forwarders. Because of the large number of documents for this three-week period, the staff reviewed a scientifically selected random sample so as to make extrapolations on the rate of complicance and the amount of sales subject to boycott requests.

The sampling of this data to complete the last quarter of 1975 is expected to be completed shortly. Likewise, the Subcommittee's report on the Arab trade boycott should be completed by the end of May. However, since the House Committee on International Relations is considering legislation to renew the Export Administration Act, including amendments related to boycott practices imposed by foreign concerns, I felt that you would appreciate the benefit of some of the preliminary statistical analysis derived from reports filed between January 1, 1974 and December 5, 1975.

During that period, 637 firms filed reports covering 4,279 sales records totaling $781,524,629 for which boycott requests were received. Most of the reporting companies complied with these requests. Although there were numerous countries found to be the subject of boycotts reportable under the Act, in terms of sales dollars, virtually all of the boycotts reported were directed against Israel. An analysis of boycott compliance should include not only the rate of reported compliance, but also what exporters were asked to do, the means used to convey the requests, and the relative impact, principally in terms of sales dollars, of the various requests. Those details are summarized in this letter.

Boycott requests were conveyed in one of three types of documents; sales, trade opportunities, and questionnaires. Sales documents include letters of credit, purchase orders, invoices, consular invoices, certificates of origin, certificates of manufacture, and contracts. Trade opportunities, including bid specifications, are often sent to several companies to specify the terms of a potential or proposed contract. A trade opportunity is, in effect, an offer to do business where, for example, a railroad company in Saudi Arabia would advertise its interest in purchasing railroad cars meeting certain construction specifications and from a manufacturer willing to sell pursuant to certain contractual terms. Questionnaires are sent by foreign concerns to American companies who may or may not be doing business with the requestor. In fact, although some questionnaires are sent in response to specific sales, most originate from the Arab League's Boycott Office and include questions designed to determine the relationship of the exporters to Israel or business interests in Israel, or in some instances, whether the exporting companies have Jews or persons with "Zionist tendencies" on the corporate board of directors or as corporate officers.

Accordingly, the meaningfulness of dollar figures cited for the receipt of questionnaires or trade opportunities is limited for the purpose of determining the economic impact of boycott requests. The dollar totals for all types of documents adds up to $2,749,084,929. However, as explained above, this total includes duplications. Thus, for the purpose of the analysis of compliance with the boycott provided here, only the responses to sales records are provided.

A single sales document containing a boycott request may contain one or more clauses that can be classified in terms of one of seven types of clauses. These types of clauses, in order of the greatest amount of sales dollars governed by them, are as follows:

Origin.—Clauses concerning the origin of the products exported. This type of clause typically includes the request that the exporter certify that the goods to be shipped are not of Israeli origin, or is wholely of United States origin.

Shipping.—Clauses related to shipping goods to Israel. This type of clause typically includes the request for companies to agree, or certify, that they will

not ship the goods aboard an Israeli ship or a ship blacklisted by the Arab League, or a ship which will stop at an Israeli port.

Israeli economy.—Clauses related to doing business in Israel. This type of clause typically includes the request that the company certify that it is not doing business in Israel in terms of making sales to Israel or having an office or subsidiary in Israel.

General.—Clauses referring to compliance with the boycott regulations. This type of clause typically includes the request that the exporter agree to comply with the boycott regulations promulgated by the Arab League Boycott Office.

Blacklist.—Clauses referring to being blacklisted by the Boycott Office or doing business with a boycotted firm. This clause typically includes requests to certify that the exporter is not blacklisted or is not doing business with a blacklisted company.

Insurance.—Clauses referring to exporting goods insured by insurance companies blacklisted by the Boycott Office. This clause typically includes a request for the exporter to certify that the goods being shipped are not insured by blacklisted insurance companies.

Religious-ethnic.—Clauses referring to the religious or ethnic heritage of the corporate officers or boards of directors of the exporting firm. This type of clause typically includes the request for the exporter to supply information on the religious affiliation of the corporate officers or boards of directors, or certification that none of the corporate officers or senior employees are members of the Jewish faith.

Prior to October 1, 1975, companies were not required to answer questions on the Commerce Department reporting form concerning the companies' action or non-action in responding to boycott requests. During that period, companies failed to answer the compliance question for reports filed for 46 percent of the sales records. For 52 percent of the sales records, reporting companies said they had complied with the boycott requests; for 1 percent of the sales records, companies said they had not complied, and for another 1 percent of the sales records, companies reported that they were undecided.

The Commerce Department's practice of permitting exporters to answer the compliance question on a voluntary basis was criticized by Subcommittee Members during a Subcommittee hearing on September 22, 1975. During that hearing, Representative James H. Scheuer told the then Commerce Secretary, Rogers C. B. Morton, that it was "an abuse of your discretion not to ask companies . . . whether they intend to comply with the boycott (request)." Although Secretary Morton then replied that "there was some legal question as to whether we (the Department) have the authority" to require answers to the compliance question, three days later the Secretary wrote to me and stated that, effective October 1, 1975, responses to the compliance question would be made mandatory.

According to reports filed between October 1, 1975 and December 5, 1975, companies reported that they had complied with the requests for 90.573 percent of the sales transactions. For 2.049 percent of the transactions, companies said they did not comply. For 0.400 percent of the cases, companies said they had not decided. For 6.967 percent of the transactions, companies did not answer that question. As for the amount of sales governed by these transactions, 96.4 percent of the sales dollars were governed by requests in which the companies said that they did comply with the boycott requests. A complete breakdown for this data is provided in an enclosed chart.

It should be noted that the Commerce Department has not kept tabulations on compliance according to sales dollars. The enclosed table illustrates the value of this data. The chart shows that the percentages for the number of records and for the sales dollars totals often are not the same. For example, during the 1st quarter of 1975, in which there was considerable publicity about the boycott, most reports were filed without responses to the compliance question. According to sales records, 59 percent of records were filed without responses to the compliance question. But according to sales dollars, 91 percent of these reports were without responses to the compliance question.

I hope you find this information of value. As more information is available, I will forward it to your Committee as well as to the Chairmen of the House Committee on the Judiciary and the Senate Committee on Banking, Housing and Urban Affairs.

Sincerely,

JOHN E. MOSS, *Chairman.*

Enclosures:

TOTAL NUMBER OF SALES RECORDS REPORTED WITH PERCENTS OF RECORDS, SALES DOLLAR TOTALS WITH PERCENTS OF SALES DOLLAR TOTALS, AND EXPORTER RESPONSES TO THE QUESTION OF WHETHER THEY COMPLIED WITH THE BOYCOTT REQUEST FOR THE PERIODS IN WHICH THEY WERE REPORTED AS HAVING BEEN RECEIVED (AS INDICATED BELOW)

Quarter and compliance	Amount	Percent amount	Total records	Percent total records
1st quarter 1974:				
Did not		0		0
Did	1,498,187	15.539	40	35.398
Undecided		0		0
No response	8,142,834	84.460	73	64.601
2d quarter 1974:				
Did not	4,156	.046	1	1.086
Did	8,365,165	93.828	53	57.608
Undecided		0		0
No response	546,092	6.125	38	41.304
3d quarter 1974:				
Did not		0		0
Did	13,521,988	95.118	77	77.777
Undecided		0		0
No response	694,011	4.881	22	22.222
4th quarter 1974:				
Did not	3,425	.039	1	.662
Did	6,126,626	70.712	85	56.291
Undecided		0		0
No response	2,534,025	29.247	65	43.046
1st quarter 1975:				
Did not	535,431	.260	3	.712
Did	7,915,146	3.843	159	37.767
Undecided	9,516,241	4.621	9	2.137
No response	187,954,428	91.274	250	59.382
2d quarter 1975:				
Did not	175,275	.096	5	.456
Did	56,577,470	31.162	564	51.506
Undecided	21,999	.012	2	.182
No response	124,778,751	68.728	524	47.853
3d quarter 1975:				
Did not	50,030	.021	13	1.014
Did	176,031,170	77.283	782	61.046
Undecided	296,018	.129	15	1.170
No response	51,395,941	22.564	471	36.768
4th quarter 1975 (up to Dec. 5, 1975):				
Did not	144,117	1.041	5	2.049
Did	13,339,611	96.400	221	90.573
Undecided	8,365	.060	1	.409
No response	345,617	2.497	17	6.967
October 1975:				
Did not	121,671	2.532	3	2.068
Did	4,630,492	96.389	134	92.413
Undecided	8,365	.174	1	.689
No response	43,387	.903	7	4.827
November 1975:				
Did not	22,446	.330	2	2.352
Did	6,673,210	98.334	78	91.764
Undecided		0		0
No response	90,574	1.334	5	5.882
December 1975 (up to December 5):				
Did not		0		0
Did	2,035,909	90.582	9	64.285
Undecided		0		0
No response	211,656	9.417	5	35.714
For all records filed between Jan. 1, 1974 and Dec 5, 1975:				
Did not	934,758	.119	37	.864
Did	352,921,999	45.158	2,330	54.451
Undecided	10,060,314	1.287	31	.724
No response	417,607,558	53.434	1,881	43.958

Chairman MORGAN. The committee stands adjourned.

FINAL REMARKS OF MR. PARSKY

Mr. PARSKY. Before you adjourn, I would just like to make a few final remarks, if that is all right. I realize that the Congressman used up the entire 5 minutes and this is not meant to evoke any controversy but I think it is important that I clarify a few points for the record.

Again I would like to state categorically that we in the Treasury Department and in this entire administration under no circumstances feel any principles that are inherent to the development and preservation of this country should be sacrificed for one piece of business. Our objectives, I think, are the same as Congressman Rosenthal expressed, namely, we want to eliminate all forms of discrimination as part of our system and we want to eliminate all boycotts because as restrictive trade practices, they are counter to our policy of seeking a free and open world trading system.

The difference, however, is we disagree as to how we can achieve this objective. The reference that Congressman Rosenthal made to the Defense contractors that are not on the boycott list I think is only supportive of the fact that we agreed that the boycott is not a totally consistent policy. There are many Arab countries that are in fact willing to do business with firms that make a significant economic contribution to them. That is not the end of the process, that is a step in the direction.

I would rather work toward an elimination of the boycott through gradual process than not have it move in that direction at all.

The reference to Morgan Guaranty that the Congressman made, I am aware of the fact that a number of banking institutions have been working with the Arab countries and have eliminated most of if not all of the prohibitive clauses. I think this is a positive development. I don't think that necessarily should evoke from us a legislative response. I think we should work to expand that kind of program. I think that we, as I said, have cited a number of steps that we have taken. We want to take more.

And finally, Mr. Chairman, I think the issue has often been cast too much in the direction of the political arena and not in terms of sound analysis of how we can really bring about an end. That is what we have been trying to do. It is our strong position that the best way to end the boycott is in fact to bring peace in the Middle East.

[The following was subsequently submitted by Gerald L. Parsky, Assistant Secretary of Treasury for International Affairs, in response to questions submitted during the meeting:]

DEPARTMENT OF THE TREASURY,
Washington, D.C., June 22, 1976.

Hon. THOMAS E. MORGAN,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: As I indicated in my appearance on June 9 before your Committee, I am forwarding to you the following information that members of the Committee requested from the Treasury Department for insertion in the record.

1. At Tab A, you will find information on U.S. merchandise trade with Israel for the five years 1971 to 1975. The U.S. Government has no bilateral data on receipts or payments for services.

2. The information requested on 1975 U.S. trade with the Arab countries that subscribe to the boycott is given at Tab B. We have also included a country by country breakdown.

3. Members of the Committee asked for information on the number of American firms on the Arab boycott list. I would first point out that there is no source of reliable and up-to-date information on this subject and furthermore that each Arab government promulgates its own list based on recommendations from the Central Boycott Office in Damascus. Several unofficial lists of boycotted firms have been published in recent years, however, and one of these, reportedly issued in 1970 by the Chamber of Commerce and Industries in Jidda, Saudi Arabia, was reprinted earlier this year as an appendix to the hearings before the International Relations Subcommittee on International Trade and Commerce entitled "Discriminatory Arab Pressure on U.S. Business," pp. 147–215.

Another list was published in Lebanon, with supplements including firms and ships added through September 11, 1974, together with deletions and replacements of firms on the main list. A copy is attached at Tab C for your information.

As you can see, this list contains a total of 1,852 entries for U.S. firms and organizations, but the number is virtually meaningless since it not only includes names subsequently deleted or replaced but also hundreds of duplicate entries, names of subsidiaries and even individual trademarks (e.g. for Ford FOMOCO, Ford "D," F–100 Pick-up,, Lincolon, Mercury, Marquis, Maverick, Maverick Grabber, etc.). The total number should be reduced substantially to get an order of magnitude of the number of American firms actually on the list promulgated in Lebanon.

4. We do not have any data on the volume of business which may have been transferred by American firms to their subsidiaries overseas as a result of the boycott or on the extent to which companies have made equivalent trade or investment arrangements in Israel and in the Arab countries. During my testimony, I mentioned that I thought the Commerce Department might maintain such records, but Commerce has informed me that such data are not available.

I was also requested to provide the comments of the Treasury Department on the renewal of the Export Administration Act, especially those features which pertain to export controls, and whether the Treasury had any changes to propose in the Act. Our review is not yet complete and I will forward the Treasury's comments and any proposals for changes in the Act to you as soon as possible. Please be assured that you will receive our comments in time for your mark-up of the Bill, which I understand will take place after the July 4 recess.

I hope this information will be of help to your Committee.

Sincerely yours,

GERALD L. PARSKY,
Assistant Secretary for International Affairs.

Attachments.

TAB A

U.S. MERCHANDISE TRADE WITH ISRAEL

[In millions of dollars]

	Exports	Imports
1971	677.0	173.2
1972	514.8	222.4
1973	885.2	264.6
1974	1,160.1	282.4
1975	1,553.2	312.8

Note: Data is f.o.b. and includes military shipments.
Source: Department of Commerce.

TAB B

U.S. EXPORTS TO MEMBER-COUNTRIES OF THE ARAB LEAGUE, 1975

[Dollar amounts in millions, f.o.b.]

	U.S. exports to—	Total imports from—	U.S. exports as percent of Arab imports
Algeria	$632	$5,700	11.1
Bahrain	80	1,052	7.5
Egypt	683	4,288	15.9
Iraq	310	6,080	5.1
Jordan	195	576	33.9
Kuwait	366	2,120	17.3
Lebanon	402	1,700	23.6
Libya	232	4,100	5.7
Mauritania	14	220	6.4
Morocco	200	2,264	8.8
Oman	75	1,218	6.2
Qatar	50	595	8.4
Saudi Arabia	1,502	6,500	23.1
Somalia	9	150	6.0
Sudan	109	680	17.2
Syria	128	1,560	8.5
Tunisia	90	1,398	6.9
United Arab Emirates	372	2,600	14.3
Yemen (A.R.)	8	200	4.0
Yemen (P.D.R.)	3	165	1.8
Total	5,464	42,954	12.72

Tab C

DOCUMENTS ECONOMIQUES

FIRMES ET NAVIRES BOYCOTTES

POUR TRAFIC AVEC ISRAEL

1971

VICTOR MICHEL BENDALY

U.S.A

1 — A.C.D. SALES CO. INC.

2 — A.C.S. INDUSTRIES INC. (71, Villanova & Florence Drive, Woonsocket Rhode, Island, U.S.A.).

3 — ADAMS CARBIDE CORP. (141 Market st. Kenilworth N.Y.) filialle à Mitchigan.

4 — AIR ELECTRIC CORP. OF NEW YORK & TEL AVIV N.Y.C., N.Y.

5 — AJAX ELECTRIC MOTOR OF ROCHESTER N.Y.

6 — ALED ORIGINALS LTD. (1410 Broadway N.Y. 18 N.Y.).

7 — ALBUMINA (82 Beaver st. N.Y. N.Y.C.).

8 — ALVA MEUSEUM REPLICAS INC. son nom commercial : ALVA STONE ALACAST (140 West 22 ND. st. New York 11).

9 — ALWEG RAPID TRANSIT SYSTEMS OF WASHINGTON STATE INC. (1900, FIFTH Ave, Seattle 1, washington).

10 — AMERICAN ASSOCIATES connue sous nom UNITED ASSOCIATES OF NEW YORK.

11 — AMERIND SHIPPING CORP. (Public Lefger Building Philadelphia Pen U.S.A.)*

12 — THE AMERICAN BILITRITE RUBBER CO. INC. (22 Willow st. Chelsea Mass) connue avant : RUBBER CO. OF CHELSEA MASS.

13 — AMERICAN BOX SHOOK EXPORT ASSOCIATION (620 Market st. San Francisco, California).

14 — AMERICAN COMMITTEE FOR BARILAN UNIVERSITY IN ISRAEL INC. (641 Lexington Avenue New York N.Y. 10022).

14/b — AMERICAN COMMITTEE FOR BARILAN UNIVERSITY, (17596 WYOMING Avenue Detroit 21 - Michigan).

15 — AMERICAN CONTINENTAL SCHAPPER'S ASSOCIATION INC. (11 West 42 ND st. New York 16 N.Y.).

16 — AMERICAN DENTAL MANUFACTURERS (DENTAL MANUFACTURERS OF AMERICA) (Commercial Trust BLDG. Philadelphia Pennsylvania).

17 — AMERICAN DOLL & TOY CO.

18 — AMERICAN DOLL CO. INC.

19 — AMERICAN ELECTRIC LABORATORIES INC. (121, N. 7th st., Philadelphia 6, Penn).

20 — AMERICAN ELECTRIC POWER CO. INC. (2 Broadway New York 9 N.Y. U.S.A.).

21 — AMERICAN ELECTRIC POWER SERVICE CORP.

22 — AMERICAN ISRAEL BASIC ECONOMY CORP. (Aimbec) (30 Rockefeller Plaza 10th FLR. New York 22).

23 — AMERICA & ISRAEL MANAGEMENT CORP.

24 — AMERICAN-ISRAEL CULTURAL FOUNDATION (2 west 45th street, New York 30, New York).

25 — THE AMERICAN ISRAEL GAS CORP. LTD. (AMISRAGAS) son bureau à New York.

26 — AMERICAN ISRAEL PAPERMILLS.

27 — AMERICAN ISRAEL PHOSPHATES CO.

28 — AMERICAN-ISRAEL SHIPPING COMPANY connue aussi ISRAEL-AMERICAN SHIPPING CO.

29 — AMERICAN ISRAEL WORLDS FIRE CORP.

30 — AMERICAN LATEX PRODUCTS (3341 W.E.I. second BLVD Hanthorne California).

31 — AMERICAN LEVANT MACHINERY CORP. (25 West, 23 st. N.Y.).

32 — AMERICAN MEDITERRANEAN CORP. (175 Fifth Ave. N.Y. 19. N.Y.)

33 — THE AMERICAN-PETROLEUM PRODUCTS CO. INC. (330, 4th Ave. N.Y.C.).

34 — AMERICAN PRECIOUS STONES (55 Liberty street New York 5, New York)

35 — AMERICAN ROLAND FOOD CO. (22 Hudson street New York, 13. N.Y.).

36 — AMERICAN RUBBER & CHEMICAL CO.

37 — AMERIND SHIPPING CORP. (Public Lefger Building Philadelphia Pen, U.S.A.*

38 — AMES COMPANY INC. (Elkhart à Indiana).

39 — AMES INTERNATIONAL INC. (Elkhart à Indiana).

40 — AMESTERDAM OVERSEAS CORPORATION.

41 — AMPAL (AMERICAN PALESTINE TRADING CORP.)

42 — AMEREX TRADING CORP.

43 — ANDORA INC.

44 — ANDRE PROST (100-11 Astoria Blvd. Corona, L.I. New York).

45 — ANGLOTEX INC. (Delaware).

46 — ANNMARIE SPORTSWEAR INC. (1407, BROADWAY, New York 18, N.Y.).

47 — A. PLEIN & CO. INC. (11 West 42ND st. N.Y. 36 N.Y.).

48 — APPAREL INDUSTRIES INC. (1407 Broadway N.Y. City).

49 — ARO-VENEERS INC.

50 — ARTISTIC ISRAEL JEWELRY MFG CO. (38 Camal street, New York 2, N.Y.).

51 — ARYE ROZENSON (30 West 47th. st. New York 17, N.Y. U.S.A.).

51/b — ASSOCIATED CONCRETE PIPE OF FLORIDA INC. CO. (Florida).

52 — ASSOCIATED DRY GOODS CORP. (417 Fifth Avenue N.Y.C.).

54 — ATA TRADING CORP. (1564 Broadway, New York 19, N.Y.).

55 — AVEENO CORPORATION.

56 — THE BALTIMORE LUGGAGE CO.

57 — BANCO AMERICANO ISRAEL (travaille à L'Uruguay).

58 — BANCO INC.

59 — BEAUNIT MILLS INC.

60 — BAYWAY TERMINAL DIVISION.

61 — BAYSID LAND CORP.

62 — BEATTIS LIGHTER (55 West 42 st. New York 36, N.Y., U.S.A.).

63 — BEECH BOTTOM POWER CO.

64 — BEECHFIELD RENTAL HOMES, INC.

65 — BEGED-OR (526 7TH Ave., New York).

66 — BELSFORD CONSTRUCTION CO. INC.

67 — BERHMAN HOUSE INC.

68 — BERMACO INC. (140 Fifth Avenue New York 11, N.Y. U.S.A.).

69 — BESTFORM CORSETRY LTD. (38-01 47 ave. Long Island City New York).

70 — BI-FLEX INTERNATIONAL INC. (11 East 36TH st. N.Y. 16 N.Y.).

71 — BISCHOFF CHEMICAL CORP. (Ivoryton Connecticut).

72 — BLAIR HOUSE FABRICS.

73 — BOLT BERANK NEWMAN INC. (50 Moulton st. Cambridge Massachussets U.S.A.).

74 — BOMMER SPRING CO. INC. (Landrum south Caralina U.S.A.).

75 — BONAFIDE MILLS INC.

76 — BOTANY INDUSTRIES INC.

77 — BOTANY MILLS INC. (Passaic N.J.)

78 — BRANT YARNS INC. (1412, Broadway).

79 — BOYAR KESSLER INVESTMENT CO. INC. (8447, Wilshire Blvd. Beverly Hills, Calif.).

80 — BRAGER & CO. connue avant HARRY BRAGER & CO. (60 wall st. New York) filiale à Washington (1218, 16th st. N.Y. Wachington D.C.).

81 — BROAD STREET'S (Chicago).

82 — BROAD STREET'S INC. (Daroff. M.)

83 — BROAD STREET'S ST. LOUIS.

84 — BROOKLYN APARTMENTS INC.

85 — B.R. BAKER CO. (Toledo, Ohio).

86 — BRYAN OLDSMOBILE (883 Willishire Blvd. Beverly Hills Los-Angelos, California).

87 — 1616 BUILDING CORP. (Wilmet, Illinois).

88 — BULOVA FONDATION.

89 — BULOVA WATCH CO.

90 — BURBERYS (New York).

91 — BURLINGTON INDUSTRIES INC. (Greensbore, North Carolina, U.S.A.)

92 — BURGESS BATTERY CO. (2550 Peterson Avenue Chicago 45, U.S.A.).

93 — B. WEBER & HEILBRONER (New York).

94 — CAL AM INC. (950 Faxon Avenue, San Francisco 12, California, U.S.A.).

95 — CALBRO INC.

96 — CALONLYMPIC GLOVE CO. INC. (California).

97 — CAPTINA OPERATING CO.

98 — CARMEL WINE CO. INC. (68 fifth Aven. N.Y. 17, N.Y.).

99 — CARDEFF GYPSUM CO. (Fort Dodge a IWA).

100 — CARROLLWOOD APPARTMENTS INC.

101 — CARROLL WOOD CONSTRUCTION CO. INC.

102 — CARROLLWOOD RENTAL HOMES INC.

103 — CE. DE CANDY INC. (329 Newark Avenue, Elizabeth, New Jersey).

104 — CENTRAL APPALACHIAN COAL CO.

105 — CENTRAL COAL CO.

106 — CENTRAL ELECTRONICS, INC.

107 — CENTRAL OHIO COAL CO.

108 — CENTRAL OPERATING CO.

109 — GENERAL PAPER COMPANY.

110 — THE CENTRAL QUEENS SAVINGS & LOAN ASSOCIATION (86-22 BROADWAY. Elmhurst New York, 11373)

111 — C.G. ELECTRONICS... CORP. (212, durham ave., metuchen New Jersey).

112 — CHANDLER EVANS CORP.

113 — CHARIES CENTER PARKING, INC.

114 — CHARLESMONT PARK, INC.

115 — CHARLES WOLF AND SONS (580, fifth Ave., N.Y., 36, N.Y.).

116 — CHEMSTRAND CORP.

117 — CHEMTRAND LTD.

118 — CHEMSTRAND OVERSEAS (à Portorico).

119 — CITADEL LIFE INSURANCE CO. (444, Madison Ave., N.Y.C.).

120 — COMPANIA OCCIDENTAL MEXICANA S.A.

121 — CLACIER SAND and GRAVEL CO.

122 — CLAYTON HALL, INC.

123 — CLINTON MILTON J. FICHER.

124 — COLONIAL CREST, INC.

125 — COLT. INDUSTRIES INC. connu avant : FAIRBANKS WHITNEY CORP. (Chicago, Illinois).

126 — COLT'S INC. FIRCARMS DIVISION.

127 — COLT'S PATENT FIREARMS CO. INC.

128 — COMPANY OCCIDENTAL MEXICANA, S.A.

129 — COMPASS AGENCIES INC. (327, south, Lasalle st. Chicago, U.S.A.).

130 — COMPUTER DIRECTIONS FUNO INC.

131 — CONCRETE PIPE CO. OF OHIO (Kilfland, OHIO).

132 — CONSOLIDATED MOLDED PRODUCTS CORP.

133 — CONSOLIDATED LAUNDRIES. Sue soc en Angleterres CONSOLIDATED LAUNDRIES, appartenant à : Charles Clore.

134 — CONSOLIDATED FREES CO. (Hastings, Mich...).

135 — CONSTRUCTION AGGREGATES CORP. (120 S. La salle st., (room 1140) Chicago 2111).

136 — CONSTRUCTION AGGREGATE DEVELOPMENT. (JAMAYCA, Kingeston).

137 — CONTINENTAL IMPORT and EXPORT CORP. N.Y.C., N.Y.).

138 — CONTINENTAL MADE INC. (1407, Broadway, New York 18, N.Y, U.S.A.)

139 — CONTINENTAL ORE CORP. (500 st. have, a New York 36, N.Y.).

140 — CONSUMERS PAINT FACTORY INC (5300 West. 5th, Avenue Gory, INDIANA).

141 — CORROPLAST INC.

142 — COSMOPOLITAN MANUFACTURING GREAT DANE BLDG. (712 Beacon st., Boston 15 Mass.).

143 — COUNTRY TWEEDS.

144 — CROSSLAND REALTY CO. INC.

145 — DADELAND SHOPPING CENTER INC.

146 — DALILA ORIGINAL.

147 — DANE ENTERPRISES INC.

148 — DAROFF and SONS INC. (200 fifth ave., N.Y. 2300 Wallnuts st., Philadelphia 3, PA).

149 — D. DAROFF and SONS INC. et ses fabriques dont les adresses :

— DUBLIN.
— Perkasie.
— Pennsburg
— Philadelphia
— Pennsilvania.

150 — DAVINCI RECORDS (254, Fifthave, New York, 1, N.Y.).

151 — DAVIS OSCAR CO. INC. (Paterson, New Jersey).

152 — DAW'S LABORATORIES INC. (4800 South Richard ave. Chicago 32, III).

153 — DAYCO CORPORATION PACIFIC POLYMERS INC.

154 — DAYTON RUBBER CO. OHIO, NEW YORK.

155 — DEERFLIELD RENTAL HOMES INC.

156 — DENTAL MANUFACTURING OF AMERICA (American dental manufacturing).

157 — PENNSILVANIE.

158 — DERBY SPORTSWEAR INC. (1333, Broadway, New York City).

159 — DEVELOPMENT CORP. FOR ISRAEL (215 PARK Ave. south New York)

160 — DIAMOND DISTRIBUTORS INC. (589 fifth Ave., N.Y., 17, N.Y.).

161 — DIRECT JEWELERY CO.

162 — DIVERSIFIED BUILDERS INC. à (Baramont).

163 — DOME CHEMICALS INC. (NEW YORK).

164 — DOME INTERNATIONAL à (Elkhart) à Indiana..

165 — DRUID VALLEY APARTMENTS, INC.

166 — D.S. GORDON (801, West, 181 st., street New York 33, N.Y., U.S.A.).

167 — DUMONT EMERSON CORP. (New Jersey).

168 — D.W. ONAN and SONS INC. (2515 University Ave. S.E., Minneapolis 14 minnesota).

169 — DWYER-BARKER ELECTRONICS CORP. (7400 Northwest 13th, AVE. Miami, Florida).

170 — DYNATECH PLASTICS CORP.

171 — EAGLE SHIPPING CO. INC. (29 Broadway, New York, N.Y. 10006 U.S.A.)

172 — EAGLE SIGNAL.

173 — EAST POINT, INC. (Baltimore, Maryland).

174 — E.C. PUBLICATIONS.

175 — THE ECUADORIAN FRUIT IMP. CORP.

176 — EDMONDSON VILLAGE INC. (Baltimore, Maryland).

177 — EISENBERG and CO. U.S.A. AGENCY INC. N.Y. (New York).

178 — ELECTRO CHEMICAL ENG. Co. à (Amo, Pensilfania).

179 — ELECTRO-OPTICAL SYSTEMS INC. (Pasadena, California).

180 — ELECTRA SPARK INC.

181 — EL'GENCIA, (512 Seventh Avenu, New York, 18, N.Y., U.S..A.).

182 — ELEMK OF ISRAEL (41 West 72nd, st. New York, N.Y.).

183 — ELLIOT IMPORT CORP. N.Y.C., N.Y.

184 — ELLIOT KNITWEAR CORP. (105-M Adison ave. N.Y., 16, N.Y.).

185 — ELLIS REALTY CO. INC.

186 — EMANUEL BLUMENFRUCHT AND SON, (36 West 47th, st., N.Y. 36 N.Y.)

187 — EMERSON INC. à (New Jersey).

188 — EMERSON INDUSTRIAL PRODUCTS CORP. à (New Jersey).

189 — EMERSON RADIO EXPORT CORP. à (Dylawer).

190 — EMERSON RADIO and PHONOGRAPH CO. (8th, ave. N.C., N.Y.).

191 — EMERTON INC.

192 — EMKOL EXPORT (441, Whitehall st., New York, 4, N.Y.).

193 — EMPIRE BRUSHES INC. (INC., N.Y)

194 — EMPIRE PENCIL CO. connu encore : HASSENFELD BROTHERS PENCIL CO.

195 — EMPIRE RAINWEAR CORP. (25, WEST 26th st., New York, 10, N.Y.).

196 — EMPIRE STAMP GALLERIES.

197 — EMPIRE TWINE and YARN CO. INC (70 Thomas st., N.Y. 13, N.Y.).

198 — ERNEST BISCHOFF CO. INC. à : — Ivoryton — connecti.

199 — E.W. BLISS COMPANY (1375 RAFF ROAD S.W. CONTON, OHIO).

200 — EXTRON TRADING CORP.

201 — FAIRBANS WHITNEY CORP. CHIGAGO ILLINOIS connu maintenant : COLT. INDUSTRIES INC.

202 — FAIRBANKS MORSE and CO. (3601 Kansas ave., Kansas, City Kansas).

203 — FAIRBANKS MORSE AND CO. INC. (Chicago, Illinois).

204 — FAIRBANKS MORSE and COMPANY (Fairlawn, New Jersey, U.S.A.).

205 — FAME-COR CORPORATION.

206 — FAMOUS RAINCOAT CO. INC. (29 Walker st., New York, 13, N.Y.).

207 — FARM PIPE LINES INC. à (Clorado)

208 — FEUCHTWANGER CORP.

209 — FILTERED RESIN PRODUCTS INC. à (Baxley).

210 — FLAMINGO FOAM LTD.

211 — FORD BACON and DAVIS, (2 broadway, New York, 6, N.Y.).

212 — FORUM REALTY CO.

213 — FOSTER GRANT INC. (112 West. 34th st., N.Y. 1, N.Y.).

214 — FOOTHILL ELECTRIC CORPORATION ELECTRICAL CONTRACTING

215 — FRANKLIN REAL ESTATE CO.

216 — FREDERICK M. COTTLIEB and CO. (55 East Washington st. Chicago 2).

217 — FREEDMAN INDUSTRIES INC. (111 Columbus ave, tuckahoe N.Y.).

218 — FREEMAN HE_PERN. ASSOCIATES (260 madison street, New York, U.S.A.).

219 — FULLCUT MANUFACTURER INC. (580 Fifth ave. New York, 36, N.Y.).

220 — GALAXY HOMES.

221 — GAMEWELL CO. INC. à (Masachositeh).

222 — GENERAL PAPER COMPANY.

223 — GENERAL SHOE CORP. (Nashville, Tenn).

224 — GENERAL TIRE and RUBBER CO. (Akron, Ohio).

225 — GEORGE CARPENTER and CO. INC. (401, N, OGDEN, ave, Chicago 22 Illinois, U.S.A.).

226 — GEORGE EHRET CO. INC. (11 West 42nd st., N.Y. 36).

227 — GILPIN CONSTRUCTION CO. LTD.

228 — GLAZIER CORP. à (Dilaweer).

229 — GLENCO. (212 durham ave., metuchen. New York).

230 — GLICKMAN CORP. (Glikman buildings 501, fifth, Avenue and 42nd., str. New York, 17, N.Y. U.S.A.).

231 — GLENOIT MILLES INC. N.Y. et ses Industries sont à : (Tarporo, à Carolina).

232 — GOLDEN BEAR OIL COMP.

233 — GORELLE BAGS INC. (14 East 32 st. N.Y. 16, N.Y.).

234 — GOTHAM KNITTING. MILLS INC. (1407, Broadway New York City).

235 — GOTHAM KNIT TOGS, INC. (1407, Broadway, New York, 4, N.Y.).

236 — GRANCO PRODUCTS INC. à (Maryland).

237 — GREEN LEAF TEXTILES CORP. (225-27, Fourth ave. New York 3, N.Y.).

238 — GRESCA CO. INC. (211 eighth ave. N.Y., 11, N.Y.).

239 — GRISTEDE BROS INC. (160, broxdale, bronx New York, U.S.A.).

240 — GRUNER and CO. (1239 broadway, N.Y. 1).

241 — GULTON INDUSTRIES INC. (212 DURHAM Ave., Metuchen, New Jersey).

242 — GYPSUM CARRIER INC.

243 — HARRIS and FRANK SOUTHERN, (California).

244 — HARROP CERAMIC SERVICE CO. (35 East Gay, st., Columbus, 15 Ohio).

245 — HARRY BRAGER and CO. (60 Wall st., New York). — suc à WASHINGTON : (suc. 1218, 16th st., N.W., Washington D.C.) — SONURAI nom : BRAGER, CO.

246 — HARLEY IMPORTS, INC.

247 — HARRY WINSTON INC. (718 Fifth ave. N.Y.).

248 — HARVILLE CORPORATION (1410, Broadway, New York, 18, N.Y.).

249 — HASSENFELD BROTHERS PENCIL CO., connu encore : EMPIRE PENCIL CO.

250 — H.C. BOHACK CO. INC.

251 — HEGEMAN-HARRIS CO. (30 Rockefeller plaza, New York, 20, N.Y.).

252 — HELENA ROBENSTINE.

253 — HELENE CURTIS INTERNATIONAL. (S.A. Chigago 39, Illinois 4401). (w. North, Avenue).

254 — HENNINGER BREWERY INTERNATIONAL CORP. (New York).

255 — HENRY J. KAISER.

256 — HERBERT MARMOREK and SON. (2153, 78th st. Brooklyn 14, N.Y.).

257 — HERMAN HOLLANDER INC. (N.Y.C. N.Y.).

258 — H.M. WILSON OPERATION.

259 — H.M. GRAUER, 15 West 47th, st. N.Y., 36).

260 — HOLYLAND MARBLE GRANITE INC. (250, West, 57th, N.Y. 19).

261 — HOLLY CARBURATOR COMPANY.

262 — THE HOME INSURANCE CO. (1511 K. street, N.W. Washington, D, C).

263 — HORNELL DREWING CO. INC.

264 — HORNELL BEERS INC.

265 — H.S. CAPLIN.

266 — HUDSON PULP and PAPER CORP. (N.Y.C. N.Y.) et ses industries sont à :

— Pine bluff — arkamansas
— Augusta — MAINE.
— Carteret — New Jersey
— Wellsburg — W. Virginia.

267 — HOUSE WORSTED TEX INC.

268 — HY. SPECTORMAN (246-22, 57th, DRIVE donglaston 62, N.Y.).

269 — (I.C.O.A.) ISRAEL CORP. OF AMERICA (18 east, 41, st., N.Y., 17).

270 — IMPERIAL EXPORT (44 White hall st., New York, N.Y.).

271 — IMPORTED BRANDS INC. (42 West 22nd, st. New, York, 10, N.Y.).

272 — IMPORT FROM ISRAEL (2634, Broadway N.Y. 25, N.Y.).

273 — IMPORTED GLASS CO. (121 Laurence ave. brooklyn, New York).

274 — INDIANA FRANKLIN REALTY INC

275 — INDIANA and MICHIGAN ELECTRIC CO.

276 — INDUSTRIAL FINANCE CORP.

277 — INSTRUMENT SYSTEM CORP.

278 — INTERCONTINENTAL IMPORTES INC. (9840, dexter Blvd. inc. Detroit, 6, Mich., U.S.A.).

279 — INTERCONTINENTAL TRANSPORTATION CO. INC. à (New York).

280 — INTERNATIONAL LATEX CORP. (New York).

281 — INTERNATIONAL PAPER CO. (220 east, 42nd. ST. N.Y. 17, N.Y.).

282 — INTERNATIONAL PIPE and CERAMICS CORP. (east, orange New Jersey, Connuavant : THE LOCK JOINT PIPE CO.

283 — INTEROCEAN ADVERTISING CORP. à (New York).

284 — INTEROCEAN RADIO CORP. à (Illinois).

285 — ISAAC J. SHALOM and Co. INC. (411 fifth ave., N.Y.C.).

286 — ISADORE ASH (1024, 1026, FORBES st., pittsburgh, 19, PA., U.S.A.).

287 — ISRAEL AMERICAN INDUSTRIAL DEVELOPMENT BANK LTD.

288 — ISRAEL AMERICAN OIL CO.

289 — ISRAEL AMERICAN SHIPPING COMPANY N.Y.

290 — ISRAEL ART CRAFT IMPORTING CO. INC. (1005 FILBERT st., Philadelphia P.A.).

291 — ISRAEL COIN DISTRIBUTOR CORP. (327, fourth, ave., N.Y.).

292 — ISRAEL CREATIONS INC. (55 West 42 st., New York, 36 N.Y., U.S.A.).

293 — ISRAEL DESIGNS (1801, Gilbert st., Philadelphia 50, P.A., U.S.A.).

294 — ISRAEL ECONOMIC CORP. (400 madison avenue N.Y. 17, N.Y.). Connu avant : PALESTINE ECONOMIC CORP.

295 — ISRAEL PHILATELLO AGENCY IN AMERICA INC.

296 — ISRAEL GLOVES INC. (18 West 37th, st. New York, 18, N.Y., U.S.A.).

297 — ISRAEL IMPORT COMPANY (1385 N. North, branch street Chicago, 22, Illinois, White Hall, 3, 1305).

298 — ISRAEL INVESTORS CORP. à (New York).

299 — ISRAEL NUMISMATIC SERVICE (115, West, 30th, st., N.Y., 1, N.Y.).

300 — ISRAEL PURCHASING SERVICES INC. (17, east 71, st. N.Y., 21, N.Y.).

301 — ISRAEL PHILATELIC AGENCY IN AMERICA INC. (115 West 30th, st., N.Y. 1, N.Y.).

302 — ISRAEL RAZOR BLADE CO. (33 West 46th, st., New York, City).

303 — ISRAEL RELIGIOUS ART INC. (43 West 61, st., New York).

304 — ISRAEL WINE LTD. (299 madison ave. New York, 17, N.Y.).

305 — JABLO PLASTICS INDUSTRIES LTD.

306 — JAQUES TOREZNER and CO. (2 West 46, st., N.Y.C., N.Y.).

307 — JACQUITH CARBIDE DIE CORP.

308 — JEFFERSON TRAVIS INC. (32 Ross st., Brooklyn, N.Y.).

309 — JERRY SILVERMAN INC.

310 — JERY MARKS INC.

311 — JESSOP STEEL CO. INC. (Green, st., West Washington, Washington P.A. Washington Country, U.S.A.).

312 — J. GERBER & CO. (855, 6th ave. New York, U.S.A.).

313 — J.M. COOK et CO. (World trade center Houston, Texas, U.S.A.).

314 — JOSEPH E. SEAGR & SONS INC. (375, Park avenue, N City, U.S.A.).

315 — J. LEVINE RELIGIOUS - SUPPLIES INC. (73 Norfolk st., N.Y.).

316 — JORDAN MANUFACTURING CORP. (1410, Broadway, New York 18).

317 — JOSAM TAILORS INC. à Pensylvania.

318 — JOSEPH BANCROFT AND SONS CO. (Banco Co.). (1430 Broadway, New York, N.Y.).

319 — THE JOSEPH MEYERHOFF CORPORATION.

320 — JOSEPH SAVION (30 West 47 st., (Room 707) New York).

321 — JULIUS KLEIN PUBLIC RELATIONS (Chigago).

322 — JUNIORIT INC. (1407, Broadway, New York, 18, N.Y.).

323 — KAISER ENGINEERS INTERNATIONAL (Kaiser center 300, Lakes, Ide drive Oakland 12, California, U.S.A.), connu sous ces deux noms :
1 — KAISER ENGINEERING OF CALIFORNIA.
2 — KAISER ENGINEERS OF OAKLAN CALIFORNIA.

324 — KAISER AIRCRAFT et ELECTRONICS DIVISION.

325 — KAISER FRAZER, connu encore (KAISER INDUSTRIES CORP.).

326 — KAISER JEEP CORP. connu avant : WILLYS OVERLAND CORP.

327 — KAISER AIRCRAFT and ELECTRONICS DIVISION.

328 — KAISER ALUMINUM and CHEMICAL CORP.

329 — KAISER BAUXITE CO.

330 — KAISER BROADCASTING DIVISION.

331 — KAISER CENTER INC.

332 — KAISER COMMUNITY HOMES.

333 — KAISER ELECTRONICS INC.

334 — KAISER ENGINEERS DIVISION.

335 — KAISER ENGINEERS INTERNATIONAL DIVISION.

336 — KAISER FOUNDATION HOSPITALS

337 — KAISER FOUNDATION HEALTH PLAN INC.

338 — KAISER FOUNDATION SCHOOL C NURSING.

339 — KAISER FOUNDATION MEDICAL CARE PROGRAM.

340 — KAISER GYPSUM CO. INC.

341 — KAISER HAWAII-KAI DEVELOPMENT CO.

342 — KAISER MANUFACTURING CORP.

343 — KAISER METAL PRODUCTS CORP.

344 — KAISER SAND GRAVEL AND DIVISION.

345 — KAISER SERVICES.

346 — KAISER STEEL CORP.

347 — KANAUHA VALLEY POWER CO.

348 — KAUFMAN BROS. (Virginia).

349 — KENILWORTH PARK INC. (Washington D.C.).

350 — KENSINGTON REALTY CO. INC.

351 — KENNEDY CABOT and CO. (460 Wilshire Blvd., Beverly Hills, Calif.).

352 — KENNEBEC PULP and PAPER DIVISION.

353 — KENNEDY GALLERIES INC. (13 east, 58 st., New York).

354 — KENSINGTON REALTY CO. INC.

355 — KENTUCKY POWER CO.

356 — KEYSTONE CONTROLS CORP. (Newark, New Jersy).

357 — KINGSPORT UTILITIES INC.

358 — KLUGER ASSOCIATES INC. (250, West, 59 st., New York, 19, N.Y.).

359 — KLUTZINCK ENTERPRISES (1 east waker drive, Chigago, Illinois).

360 — KOOK H and CO. INC. à (New York)

361 — KORDAY FASHIONS INC. (1407, Broadway, New York City).

362 — KORDEEN MANUFACTURING CO. INC.

363 — KRAUS BROTHERS and CO. INC. (1420, south, penn, square Philadelphia, 2, U.S.A.).

364 — LAZARD FRERES, (44 Wall street, New York, N.Y.).

365 — LEEDS MUSIC CORPORATION, (3[illegible] W, 48th st., N.Y., 36, N.Y.).

366 — LEE FILTER CORP. (191, Talmadge road, N.Y., U.S.A.).

367 — LEIDESDORF FOUNDATION INC. (100 east, 42nd, street).

368 — LEMAYNE LTD. (85 MC. allister st., San Francisco, California).

369 — LEON ISRAEL and BROTHERS, (160 California st., San Francisco).

370 — LEONARD CONSTRUCTION CO. INC. à (Chigago, Illinois).

371 — LOAN CORPORATION LTD.

372 — LEUMI FINANCIAL CORP. (60 Wall street, New York, N.Y.).

373 — LEWIS PRODUCTS CO.

374 — LEWIT YARN CO. (1170, Broadway, New York, 1, N.Y., U.S.A.).

375 — LEYLAND MOTORS (U.S.A.).

376 — L.H. LINCOLN CORP. SAN FRANCISCO CAUF.

377 — LICENSING DIVISION and BOTANY PRODUCTS CORP.

378 — LIBERTY INDUSTRIAL PARK CORP.

379 — LOCHWOOD APARTMENTS INC.

380 — LOCK JOINT AMERICA INC.

381 — LOCK JOINT PIPE CO. (Sherman Concrete Pipe Co.) à Portorico).

382 — LOEWENGART and CO. LTD. (4[illegible] Park, ave. so., New York, 16, N.Y. U.S.A.).

383 — THE LOOK JOINT PIPE CO. (East orange New Jersey) connu : INTERNATIONAL PIPE and CERAMIC.

384 — LONDON STAR DIAMOND CO. (New York), INC. (135 West 50th street, New York City, New York, 10020, 15th floor).

385 — LORCA INC. (1384 Broadway, New York 18, N.Y.).

386 — LORD and BISHOP INC. à (Sacramonto).

387 — LORD and TAYLOR CO.

388 — L. SONNEBORN SONS INC. — SONNEBORN ASSOCIATES PETROLIUM CORP.

389 — LUNA DUVAL INC. à (New York).

390 — LYONS IMPORT EXPORT CO. INC. (350, fifth, avenue, New York 1, N.Y., U.S.A.).

391 — MACCO CORP. (7844 E, Rosecrans Blvd., Clear, Water st., Paramont California).

392 — MACCO REALTY COMPANY, à (Baramont).

393 — MACHINERY TRADING CORP.

394 — MACKINTOSH, HEMPHILL CO. à (Dibawer).

395 — MARITIME OVERSEAS CORP. (511, fifth avenue New York).

396 — MARQUETTE TOOL MANUFACTURING CO. INC.

397 — MARTIN INTERNATIONAL (30 W, 39th, st., New York 18, N.Y.).

398 — MARTIN WOLMAN and CO.

399 — MARMARA PETROLEUM CORP.

400 — MASSACHUSSETS MUTUAL LIFE INSURANCE CO. (1205 Stage street spring field, Mass., U.S.A.). et sa branche à Washington : (777, 14th and H, street, N.W., Washington D.C.)

401 — MATTIQUE LTD.

402 — MATZ STYLE INC. (22 West 32nd, st. New York, 1, N.Y.).

403 — MAY FAIR TRADING CO. (381, Park ave. south, New York, 16, N.Y.).

404 — MEDITERRANEAN AGENCIES.

405 — MEDITERRANEAN INC.

406 — MERITT - CHAPMENT and SCOTT INC. (350, 5th, ave, New York).

407 — MERK ROSS & CO. (167 first st. San Francisco, California).

408 — METALOCK REPAIR SERVICE.

409 — METROPOLIS BREWERY OF JERSEY INC. (1024 Lambert st., Trenton, New York).

410 — M FIRESTONE CO. INC. (22 W. 49th, N.Y., 36, N.Y.).

411 — M. HAUSMAN and SONS INC.

412 — MILES CALIFORNIA CO. à (Los Angeles, California).

413 — MILES CHEMICALS CO. à (Elkhart, Indiana).

414 — MILES INTERNATIONAL ELKHART à (Indiana).

415 — MILES LABORATORIES INC. à (Elkhart, Indiana).

416 — MILES LABORATORIES PAN AMERICAN INC. à (Elkhart, Indiana).

417 — MILES PRODUCTS à (Elkhart, Indiana) et Possède deux branches à :
1 — Zeeland.
2 — Clifton New Jersey, à Mitchigan.

418 — MILTON J. FISHER.

419 — MILTENBERG & SAMTON INC.
— 10 East 40th. street, New York 16 N.Y.
— 15 Moors st. New York, 4 N.Y.

420 — MINKUS MIDWEST INC. (Chicago, Illinois).

421 — MINKUS PUBLICATIONS INC. (115, West 30th st., N.Y., 1, N.Y.).

422 — MINKUS STAMP AND COIN CO. (Philadelphia, P.A.).

423 — MITSUBISHI MONSANTO CHEMICAL CO.

423/b — MITSUBISHI CHEMICAL IND.

424 — M. LAWENSTEIN and SON INC. (1430 Broadway, New York, 18, N.Y.)

425 — M.L. ROTHSCHILD CO. (Chigago).

426 — MOLLOR DEE TEXTILE CORP. (Delaware).

427 — MONARCH FIRE INSURANCE CO.

428 — MONARCH WINE CO. LTD. (4500 second avenue Brooklyn 32, N.Y., U.S.A.).

429 — MONSANTO CHEMICAL COMPANY. (800 Lindbrgh rd., ccor, olive st. rd.) 1700-24-50, 2nd st.

430 — MANSANTO EXPORT CO. INC. à (Saint Louis).

431 — MANSANTO IBERICA S.A.

432 — MANSANTO INTERNATIONAL FINANCE COMPANY.

433 — MONSANTO RESEARCH CORP. à (Saint Louis).

434 — MOORE and THOMPSON PAPER CO.

435 — MORGENSTEIN INC. (580 fifth ave., New York, 10, N.Y.).

436 — MORTGAGE et SAVIHS BANK LTD.

437 — MOTOROLA COMMUNICATIONS ELECTRONICS INC.

438 — MOTOROLA INC.

439 — MOTOROLA OVERSEAS CORP. (4545 W., Augusta blu Chigago 51, Illinois).

440 — MUSHER FOUNDATION (250 West 57th street, New York).

441 — NANNETTE CASHMERES INC. (1410, Broadway, New York, 18, N.Y.).

442 — NASSAU BRASSIERE CO.

443 — NATIONAL BREWERY LTD.

444 — NATIONAL STEEL AND SHIP-BUILDING CO.

445 — NATIONAL STEEL et TIMPLATE WAREHOUSE INC.

446 — NATIONAL DYNAMICS CORP. (220, east 23rd, N.Y., 10, N.Y.).

447 — THE NATIONAL PLASTIC PRODUCTS CO. (Odentor, Maryland).

448 — NATIONAL SHOE PRODUCT CO.

449 — NATION STEEL et SHIP BUILDING CO.

450 — NEW ENGLAND MUTUAL LIFE INSURANCE CO. (501, Boylston street, boston 17, massachusettes), et sa branche à Washington (720, Woodward building, 15th street, Washington D.C.).

451 — NEW WEST OPTICAL CO. (280 West 7th, st., Los Angelos, California, U.S.A.).

452 — NEW YORK MERCHANDISE CO. INC. (32-46, W. 23, rd., st., New York, 10, N.Y., U.S.A.).

453 — NILES and BEMENT FOND CO.

454 — NITRO INDUSTRIES CORP. à (Nitro West Verginia).

455 — NORTH POINT LAND CO.

456 — OCEAN CLIPPERS INC. à (New York).

457 — OCEAN TRANSPORTATION à (New York).

458 — OFER STYLE (1182, Broadway, New York City, U.S.A.).

459 — CHAWA HYDRAULIC SILICA à (Chigago).

460 — OHIO POWER CO.

461 — THE OLYMPIC GLOVE CO. INC. (95, Madison, ave., New York, 16, N.Y.).

462 — CMNI FABRICS, (460, Park ave., south, New York, 16, N.Y.).

463 — ORCO INDUSTRIES LTD. (Miami, Florida).

464 — ORIENTAL EXPORTERS LTD.

465 — ORISCO CORP.

466 — ORLITE ENGINEERING CORP.

467 — OVERSEAS DISCOUNT CORP. (61, Broadway N.Y., 6, N.Y.).

468 — PACIFIC DIAMOND CO. (657, mission st., San Francisco, 5, California). et ses divers branches comme la branche à (Arizona) : (305, Goodrich Bldg. Phœnix Arizona).

469 — PACIFIC CRANE and RIGGING CO. INC. à (Baramont).

470 — PACIFIC DREDGING CO. (14409, Paramount Blvd., Paramount).

471 — PACIFIC GYPSUM CO.

472 — PAGODA ARTS CO. (51, Aster drive, New Hyde, Park, New York).

473 — PALESTINE ENDOWMENT FUNDS INC. (30 Board, street N.Y.C.).

474 — THE PALESTINE ECONOMIC CORP. U.S.A. (1400, Madison avenue N.Y. 17, N.Y. — 2.18 east 41, st., New York, 17, N.Y.).

475 — PAMA PROPERTIES INC. (New Jersey).

476 — PANTO MINES INC. (1407, Broadway New York, City).

477 — PAVELLE TRADING CO. (220 West 42nd, st. N.Y., 36, N.Y.).

478 — P.E.C. DIAMOND CORP. (N.Y.C. N.Y.).

479 — PELTOURS.

480 — PERMANENTE CEMENT CO.

481 — PENSYLVANIA COAL et COKE.

482 — PERMANENTE SERVICES INC.

483 — PERMANENTE SERVICES OF HAWAII INC.

484 — PERRINE REALTY INC.

485 — PENNSBURG CLOTHING CO. à (Philadelphia).

486 — PENN MUTUAL LIFE INSURANCE (530, Waiunt, street Philadelphia Pennsylvania, U.S.A).

487 — PENNSYLVANIA DIVISION.

488 — PHILIPP BROS FOR EAST CORP.

489 — PHILIPP BROS INC.

490 — PHILIPP BROS ORE CORP. (70 pine st., N.Y., 5, N.Y.).

491 — PHILADELPHIA INTERNATIONAL INVESTMENT CORP.

492 — PHILADELPHIA NATIONAL BANK.

493 — PHIL SILVER CO. (c/o C.B.S. studios Hollywood, California).

494 — PHOENIX ASSURANCE CO.

495 — PHOENIX MUTUAL LIFE, INSURANCE CO. (79 elm street, hartfo, rd. 15, Connecticut, U.S.A.).

496 — PHONOVISION CORP. à (Illinois).

497 — PILOT RADIO CORP. (N.Y.C., N.Y.).

498 — PIONNER WOMEN'S LABOR ZIONIST ORGANIZATION OF AMERICA (29 east 22nd street, New York 10).

499 — PIONEER WOMEN'S COMMERCIAL BONDS OF ISRAELI GOVERNMENT

500 — PLASTIMOLD CORP. à (Masyostch).

501 — PLAX CORPORATION.

502 — PLAYTEX.

503 — PORTLAND COPPER and TANK WORKS INC. à (south Portland).

504 — POTTER and JOHNSTON CO.

505 — PRATT and WHITNEY CO. INC.

506 — PREMIER INDUSTRIES.

506/b — PRINCETCN KNITTING MILLS INC

507 — QUINEY COMPRESOR DIVISION.

508 — QUICK WAY TRUCK SHOUEL.

509 — QUIET HEET MANUFACTURING CORP. à (New Jersey).

510 — REALTON ELECTRONICS CO. LTD. (71, fifth avenue New York, 3, N.Y., U.S.A.).

511 — RALLI BROS (New York) INC.

512 — RASSCO FINANCIAL CORP. (250 W. 57th, st).

513 — RASSCO RURAL and SUBURBAN SETTLEMENT CO. LTD l'adresse du bureau principale : (11 West 42 st., New York, N.Y., U.S.A.).

514 — PAULAND CORP. OF CHIGAGO.

515 — REPUBLIC CORP. (4024, Radford avenue north, Hollywood, California).

516 — REPUBLIC PRODUCTIONS CORP. (4024 Radford avenue north, Hollywood, California).

517 — REPUBLIC PRODUCTIONS INC.

518 — REPUBLIC PICTURES INTERNATIONAL CORP. (4024, Radford avenue north, Hollywood, California).

519 — REYNOLDS CONSTRUCTION CORP. (120 Wall st., N.Y. 5, N.Y. à New York). Hill Building Washington 6).

520 — REYNOLDS FEAL CORP. (120, Wall st., N.Y., 5, N.Y.).

521 — R.H. COLE and CO. LTD.

522 — THE RICHELIEU CORP.

523 — RIO DE LA PLATA TRADING CORP (15 White Hall st., N.Y.).

524 — RIPELY SHOE PRODUCTS CO.

525 — ROBERT R. NATHAN ASS. INC. (1218, 16th, st., H. W., Washington).

526 — ROBINSON INDUSTRIES CORP. 434, 52, nd. street, West New York, New Jersey).

527 — ROBINSON - ANTON TEXTILE CO. INC. (New Jersey).

528 — ROBINSON TEXTILE CO. (New Jersey).

529 — ROCKWOOD SPRINKLER.

530 — ROGOSIN INDUSTRIES LTD. BEAUNIT MILLS INC. (New York).

531 — RO-SEARCH INC. WAYNESVILLE, N.C.

532 — ROTHLEY INC. (160, Madison avenue N.Y.) sa branche à Chigago porte le même nom (307, West Vam, buren st., Chigago, 111).

533 — RUBBER CO. OF CHELSEA, MASS. connu maintenant : AMERICAN BILTRITE RUBBER CO. INC.

534 — RUDIN NEEDLE CRAFT.

535 — RUSSCO INDUSTRIES INC. (State st 344, Leetonia rd., Columbia, Ohio, U.S.A.).

536 — SAM DIAMOND KNITTING MILLS INC. (367, West adams st. Chigago, 6-111, U.S.A.).

537 — SAMUEL ADIRE (2422, Broadway, New York, 24, N.Y.).

538 — SAN RAFAEL CAYES INC.

539 — SCHERR TUMICA INC. (st., James Minnerata, U.S.A.).

540 — S.D. LEIDESDORF AND CO.

541 — SEALANES INTERNATIONAL INC. (Illinois Chigago)*

542 — SEARS ROEBUCK and CO. (925 Shoman ave. Chigago, 111, U.S.A.).

543 — SENECA MAIL, INC.

544 — SEVEN STARS LINE.

545 — SHACHT STEEL CORP. (465, Hilladale ave. hilladale 5, N.Y., U.S.A.)

546 — SHARON PALESTINE OIL CORP.

547 — SHAWINIGAN RESINS CORP. (Spangfild, Masachochiste).

548 — SHAWINIGAN CHEMICAL LTD.

549 — SHULSINGER BROTHERS (2/E fourth st., N.Y., 3, N.Y.).

550 — SHUNT LAMP CORPORATION (32-46-23 rd., st., New York 10, N.Y.).

551 — SIFREI ISRAEL (158, fifth ave., room 725, New York Lo, N.Y.).

552 — SINCLAIR and VALENTINE INC. (N.Y.C., N.Y.).

553 — S.J. GENACH INC. (2 West 47, th st. N. Y., 36, N.Y.).

554 — SKYE INCORPORATED.

555 — S.M. ELOWSKY and CO. INC. (1407, Broadway, New York, N.Y.).

556 — LA SOCIETE MONSANTO BOUSSIS S.A.

557 — SOLCOOR INC. (250 West 57th st. New York 19 N.Y.).

558 — THE SOL MANUFACTURING CORP.

559 — SONNEBORN BROS INC.

560 — SONNEBORN CHEMICAL and REFINING CORP.

561 — SONNEBORN INTER AMERICAN CORP.

562 — SONNEBORN OF MARYLAND.

563 — SOUTH BEND MANUFACTURING CO.

564 — SOUTHERN PERMANENTE SERVICES INC.

565 — SOUTHERN SHIPPING CO. (Ocean terminal Savanah, Georgia, U.S.A.).*

566 — SOUTHLAND MAIL INC.

567 — SPANEL FOUNDATION.

568 — SPORTEENS INC. (1407, Broadway, New York, 18, N.Y.).

569 — SPORT TOGS INC. (242, W., 36th st. New York, City).

570 — STANALCHEM INC. (350, Madison ave, New York 17, N.Y., U.S.A.).

571 — STANDARD MAGNESIUM and CHEMICAL.

572 — STANDARD TRIUMPH MOTOR CO. LTD. U.S.A.

573 — STANLY WARNER CORP. (1585 Broadway, New York, 36, N.Y.).

574 — STAPLING MACHINES CO. (31 pine st. Rockaway, New Jersey).

575 — STATE MUTUAL LIFE ASSURANCE CO. OF AMERICA (440, Lincoln str. Worcester Mass., U.S.).

576 — STEARMS ROGER CORP. (660 Bannock st., denever 2 Colorado, U.S.A.).

577 — STERLING DIE CO.

578 — STONE and FORSYTH CO. INC. (350 Book Line st., Cambridge 39, Mass, U.S.A.).

579 — STAUS DUPARGUET INC. (33 east 17th. st. N.Y., 11 N.Y.).

580 — SUMMER CHEMICAL CO. ELKHART à (Indiana).

581 — SUNWEAR INC.

582 — SURION and ISRAEL FOREIGN, TRADE CREDITS CORP.

583 — SURVEYS and RESEARCH CORP. (1010 vermont avenues N.W., Washington 5, D.C. U.S.A.).

584 — SWISS-ISRAEL TRADE BANK (Geneva). (20 exchange place rm 4300-1 N.Y.).

585 — TAKAMINE LABORATORY CLIFTON, (New Jersey).

586 — TALLER AND COOPER INC. (83, front street Brooklyn 1, New York).

587 — TARO PHARMACEUTICAL CO. (66 eastern Parkway, Brooklyn, N.Y.).

588 — TARTAN HOMES.

589 — TATRA SHEEP CHEASE CO. (22 Harrison st., N.Y., 13, N.Y.).

590 — TEL AVIV IMPORTING CORP. (47 essex st., N.Y., 2, N.Y.).

591 — THREE LIONS INC. PUBLISHERS (545 fifth, New York 17, N.Y.).

592 — TINAGARA NOVELTIES INC.

593 — TITAN MANUFACTURING CO. INC. (701 seneca st., buffala 10, N.Y.)..

594 — TITAN SALES CORP.

595 — TOLEDO-MACHINE AND TOOL CO. LTD. (Tolido, Ohio).

596 — TOPPS CHEWING GUM INC. (237, 37th street, Brooklin 32, New York).

597 — TORCZYNER M. and CO. INC. (570 fifth ave., N.Y., 36, N.Y.).

598 — TOWN-MOOR, INC. (265 West 37th, st. New York, 18, N.Y., U.S.A.).

599 — TOWN and COUNTRY WEST INC.

600 — TOWN and COUNTRY, WOODMOOR INC.

601 — TOWN and COUNTRY - YORK, INC.

602 — T. PARKER HOST. INC. (Western Unio Building, Morfolk, Virginia, U.S.A.)*

603 — TRANSCONTINENTAL MUSIC PUBLICATIONS, (1674, Broadway, N.Y., 19, N.Y.).

604 — TREISSER TOURS, (10 West 47th st., N.Y., 19, N.Y.).

605 — TRI COUNTRY SHOPPING CENTER INC.

606 — TUK-TOWN DISTRIBUTORS (23 east 26th st., N.Y. 1, N.Y.).

607 — TUROVER ISADOR.

608 — TUROVER MILL and LUMBER CO. (2800, 52nd ave., Bladensburg, Maryland).

609 — TWIN BRANCH RAILROAD CO.

610 — TZELL TRAVEL TOURS.

611 — UNELA.

612 — UNION BAG. CAMP. PAPER CORP. (Woolworth bldg., 233, Broadway N.Y., 7, N.Y.).

613 — UNITED ASSOCIATES OF NEW YORK, connu : AMERICAN - ASSOCIATES.

614 — UNITED NEAR EAST LABORATORIES.

615 — UNITED STATES NEAR EAST LABORATORIES, (tenesse).

616 — UNITED STATES GLASS MANUFACTURING CO. INC. (32, 46-23 rd., st., New York 10, N.Y.).

617 — UNITED SUPPLY and MANUFACTURING CO.

618 — UNIVERSITY MICROFILM INC. (ann arbor, Michigan).

619 — U.S. WALLBOARD MACHINERY Co. (90 Broad st., New York).

620 — UTILITY APPLIANCE CORPORATION.

621 — UTILITY APPLIANCE OF LOS ANGELOS.

622 — VACO PRODUCTS CO. (317, east Onterio st.).

623 — VACUMIZER MFG. CORP.

624 — VICTORIA VOGUE INC. (8000, cooper, Glendale Brooklyn, 27, N.Y.).

625 — THE VINANGO REFINERY CO. INC. (Franklin penna).

626 — VINTAGE WINES INC. (625, West 54, N.Y., 16).

627 — WALKER LAND CO. INC.

628 — WALDMAN ASSOCIATES.

629 — WELBILT CORPORATION (Maspeth . . 70, New York).

630 — WELDON MILLS INC.

631 — HELENA ROBENSTEIN.

632 — WEST COAST LINE INC. (67, Broad street, New York, U.S.A.)*

633 — WESTERN WOODS INC.

634 — WEST VIRGINIA POWER CO.

635 — WESTVIEW APARTMENTS INC.

636 — WESTVIEW SHOPPING CENTER, INC.

637 — WHEELING ELECTRIC CO.

638 — W.H. DOUGHERTY and SONS REFINERY CO. (Peroia, penna).

639 — THE WHISTLCLEAN CORP. (401, 4th, ave., N.Y.C.).

640 — WILHELM BAND and CO. (157, division ave., Brooklin, 11, N.Y.).

641 — WILLIAMS DIAMOND and CO. (530 W., 6th, street Los Angios)*

642 — WILLIAM H. WANAMAKER à (Philadelphia).

643 — WILLYS OVERLAND CORP.

644 — WINCHARGER CORP.

645 — WINDSOR POWER HOUSE COAL CO.

646 — WINKLER CREDIT CORP.

647 — WITCO CHEMICAL CO. INC.

648 — WOODBRIDGE CONSTRUCTION CO. INC.

649 — WOODCRAFT REALTY CO. INC.

650 — XEROX CORPORATION (Midtown, Tower, Roochester, New York).

651 — YASKI CORP. (550 tenth ave., New York).

652 — ZENITH ELECTRONICS CORP.

653 — ZENITH HEARING AID SALES CORP. (Illinois).

654 — ZENITH-RADIO CORP. (1900 North Austin avenue Chigago, Illinois 606, 30)

655 — ZENITH RADIO CORP. OF CALIFORNIA.

656 — ZENITH RADIONICS CORP. OF ILLINOIS.

657 — ZENITH RADIO CORP. OF MICHIGAN.

658 — ZENITH RADIO DISTRIBUTING CORP. à (Illinois).

659 — ZENITH RADIO RESEARCH CORP. à (California).

660 — ZENITH RADIO RESEARCH CORP. (U.K.) LTD.

661 — ZENITH SALES CORP. (Chigago).

662 — ZIM, ISRAEL AMERICAN LINES.

663 — ZOLER CASTING CO.

664 — A. ASCH CO. (375 Park avenue, New York, 10022).

665 — ACCURATE MANUFACTURING CO. (44 Hepworth place Garfield, New Jersey).

666 — ADMIRATION.

667 — ADVANCE STORES CO. (802, Kern ave., Roanoke Virginia).

668 — AEROSPACE SYSTEMS DIVISION (Bedford street crossroads, route 62 and route 3) Burlington Massachusetts 01801, P.O. Box 588).

669 — AETNA LIFE et CASUALTY.

670 — THE AETNA CASUALTY et SURETY.

671 — AINSBROOKE CORP.

672 — AIR-VUE PRODUCTS CORP.

673 — ALL STATES MANAGEMENT CO.

674 — THE ALGER FUNO INCORP.

675 — ALLIED BIRD CO.

676 — AMERICA and ISRAEL GROWTH FUND INC.

677 — AMERICAN BANK and TRUST (70 Wall street, N.Y.C.).

678 — AMERICAN BILTRITE EXPORT CORP. (22 Willow street. Chelsea 50 mass).

679 — AMERICAN BILTRITE RUBBER INTERNATIONAL INC.

680 — AMERICAN BIRD CORP.

681 — AMERICAN BIRD FOOD MANUFACTURING CORP. Connue aussi : AMERICAN BIRD FOOD PRODUCTS (6600 W., Armitage, Chicago Illinois).

682 — AMERICAN BIRD PRODUCTS.

683 — AMERICAN COMMITTEE FOR BOYS TOWN JERUSALEM (165, W. 44th. street, New York City).

684 — AMERICAN EDUCATIONS INC. (Columbus Ohio) connue encore : WESLEYAN UNIVERSITY PRESS.

685 — AMERICAN (Continental) CO. OF JAPON.

686 — AMERICAN ELECTRO CHEMICAL INDUSTRIES OF CLEVELAND (601 Rockwell Ave. 1405, east 6th street, Cleveland, Ohio).

687 — AMERICAN ISRAEL CULTURAL FONDATION.

688 — AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE (AIPAC)

689 — AMERICAN JEWISH COMMITTEE, Centre Principale : à New York : Institute of human relations 165, east 56 street, New York, N.Y. 10022).

690 — AMERICAN JEWISH CONGRESS (Stephen wise congress house 15 east 48th street New York, N.Y. 10028).

691 — AMERICAN JEWISH LEAGUE FOR ISRAEL (30 West, 42 street N.Y., N.Y. 10036).

692 — AMERICAN PHOTOCOPY EQUIPMENTS APECO.

693 — THE AMERICAN ROAD INSURANCE CO. (2000 rotunda drive dearborn Michigan).

694 — AMERICAN SEED AND FEED PRODUCTS INC.

695 — AMERICAN SHELL PRODUCTS INC

696 — AMERIND SHIPPING CORPORATION.

697 — AMERICAN SOCIETY FOR RELIEF and IMMIGRANTS INC. (New York).

697/b — AMERICAN TECHNION SOCIETY

698 — AMERICAN SYNTHETIC RUBBER CORP., connue avant : AMERICAN RUBBER CORP. et son usine à : Kentucky, Lonisville).

699 — AMURLINE CORP.

700 — AMERICAN TRUST CO.

701 — AMITONE.

702 — AMPAL REALTY CORP.

703 — AMTICO.

703/b — AMUN ISRAEL HOUSING CORP.

704 — ANGLE-TITE.

705 — ANGLIA.

706 — THE ANN and EDGAR BRONFMAN FOUNDATION INC. (375, Park ave., New York, N.Y.).

707 — ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH.

708 — APPLIANCES BUYERS CREDIT CORP.

709 — APPLIED OPTICS and MECHANICS INC. (Arcada, California).

710 — AQUASOL.

711 — ARDISCO FINANCE.

712 — ARLIDIN.

713 — ARGUS CHEMICAL CORP.

714 — ASHTON VALVE CO. (43 Kendrick and dropt street Werntham massachusette).

715 — ASHTON VALVE CO. INC.

716 — ASSOCIATED SPORTSWEAR.

717 — ASTHMA NEFRIN.

718 — ASTROL ELECTRONICS DIVISION.

719 — AUTOLITE DIVISION OF FORD MOTOR CO.

720 — AZO ENTUSUL

721 — B.C. MORTON ORGANIZATION.

722 — B.C. MORTON AGENCY INC.

723 — B.C. MORTON FUND INC.

724 — B.C. MORTON FINANCIAL CORP.

725 — B. YOUNG and CO. OF AMERICA LTD.

726 — BAKER'S BOTTLE READY.

727 — BAKER'S INFANT FORMULE.

728 — BALTIMORE CLOTHES.

729 — BASIC SYSTEMS INC. (New York).

730 — BAUM YOCHIM and CO. (510-N-dearborn ave., Chicago, Illinois).

731 — BEARING INSPECTION INC. (3311, east gage ave., huntington park California, 90236, U.S.A.).

732 — BEATRICE POCAHONTAS CO. (Buchanan country Virginia).

733 — BELCO. PETROLEUM. CO.

734 — BELDING CHEMICALS INDUSTRIES INC. (1407 Broadway, N.Y.C.).

735 — BELDING CORTICLLI FIDER GLASS FABRICS INC. (1407, Broadway, N.Y C.).

736 — BELDING HAUSMAN FABRICS INC

737 — BELDING HEMINWAY CO. INC. (1407, Broadway, N.Y.C.).

738 — BELDING REAL ESTATE CORP.

739 — BELL BROTHERS INC.

740 — BELWOOD SHOE MARKERS.

741 — BELMONT LABORATORIES INC. (Philadelphia Pennsylvania).

742 — BELVEDERE PRODUCTS INC. (125 Columbia ave. Belvedere Illinois).

743 — BENNETT CORP. (350, 5th, ave., N.Y., N.Y.C.).

744 — BERLAND SHOE CO. (Allen stors).

745 — BI-C.

746 — BILTRITE.

747 — BLUE RIDGE SHOE CO. (Los Angeles, California).

748 — BLUSH-ON.

749 — B.M.C. SHOE CO.

750 — B'NAI B'RITH.

751 — B'NAI B'RITH HILLEL FOUNDATION.

752 — B'NAI B'RITH REHOVOTH LODGE.

753 — B'NAI B'RITH WOMEN.

754 — BOMYTE CO. (1407, Broadway N.Y.C.).

755 — BONWITTELLER CO.

756 — BOSTON.

757 — BOSTON BRITISH PROPERTIES LTD.

758 — BOTANY BRANDS INC. (350 5th, ave., N.Y.C.).

759 — BOWLING GREEN MANUFACTURING CO.

760 — BRETZMINING CO.

761 — BRITE, GARD.

762 — BOWINT TELLER CO.

763 — BRAGER AND CO.

764 — BRITISH AMERICAN PROPERTIES INCORPORATED U.S.A.

765 — BROADCASTING COMMUNICATIONS and ELECTRONICS PROCESSING DIVISION. (510 north lasale street Indiana polis Indiana).

766 — BRANCO.

767 — BROW BEAUTIFULL.

768 — BROWN-VINTERS CO. INC.

769 — BRUNO SCHEIDT INC. (16-22 Hudson st. (room 410) New York, 13, N.Y.).

770 — BRUSH-ON EYE SHADOW.

771 — BUILDING FRAMES INC. (464 Hillside ave. Hillside N.S.).

772 — BULLDOG.

773 — BUSINESS PRODUCTS and SYSTEMS DIVISION (Rochester New York 14603).

774 — BUTTER-NUT.

775 — BUTTER-NUT FOODS CO.

776 — BYERS A M. INC. (430, 7th ave., Pittsburgh P.A.).

777 — CALIENTE.

778 — CALLANAN SLAG and MATERIAL CO. INC.

779 — CALVERT DISTILLING CO.

780 — CAPITAL FOR ISRAEL INC.

781 — CAPITOL PRODUCTS.

782 — CAPRI.

783 — CAREWELL TRADING CORP. (1270 6th, Avenue, (room 2701), N.Y.C.).

784 — CAREY CADILLAC RENTING CO. (California INC.) (Los Angeles, Calif)

785 — CATS PAW RUBRER CO. INCORPO. (Baltimore, Maryland).

786 — CARLISLE SHOE CO.

787 — CENTURY ARMS INCORPORATION

788 — THE CENTRAL QUEENS SAVINGERS (Loan association 86, 22, Broadway).

789 — CHANDLER EVANS CONTROL SYSTEM DIVISION (Charter oak Blvd. West Hartford Connecticut).

790 — CHARM STEP SHOE CO.

791 — CHESHIRE INC. (Mundelein Illinois)

792 — CHELSEA PUBLISHING CO. (50 east Forham road Bronx N.Y., 10468).

793 — CHESMSTONE CORP.

794 — CHEVINAL.

795 — CHIGAGO.

796— CHIGAGO SPECIALTY MANUFACTURING (7500 Linder skokie Illinois)

797 — CHIGAGO TRANSPORT SERVICE INC. (Illinois).

798 — CHIME.

799 — CIA-RO-SEARCH, LAS AMERICAN S.A.

800 — CLASSICS INTERNATIONAL CORP.

801 — CLERESPAN.

802 — COASTAL FOOT WEAR CORP. à (Portorico).

803 — COCA-COLA.

804 — COCA-COLA BOTTLING CO. OF BALTIMORE (2525 Kirk ave. Baltimore Maryland 21218).

805 — COCA-COLA BOTTLING CO. OF CALIFORNIA (1500 mission street San Francisco,Califo 94101).

806 — COCA-COLA BOTTLING CO. OF CHIGAGO.

807 — COCA-COLA BOTTLING CO. OF GAN (1440 Butter Worth street S.W. Indiana 46400).

808 — COCA-COLA BOTTLING OF MICHIGAN (1440 Butter Worth street S.W. grand rapids Michigan 49501).

809 — COCA-COLA BOTTLING OF NEW ENGLAND (400 soldiers field road Boston, Massachusetts 02134).

810 — COCA-COLA BOTTLING CO. OF OHIO (780 twin rivers drive seattle Washington 98122).

811 — COCA-COLA BOTTLING CO. OF WISCONSIN (424 E. CAPITOL DRIVE Milwaukee Wisconsin 53212).

813 — THE COCA-COLA CO. (100 West., 10th street Wilmington delaware, U.S.A.).

813 — COCA-COLA EXPORT CORP.

814 — COCA-COLA INTER AMERICAN CORP. (515 Madison Ave., New York N.Y.).

815 — COCA-COLA INTERNATIONAL CORP. (100 W. 10th street Wilmington, delaware).

816 — COKE.

817 — COLDSPOT.

818 — COLORSILK PERMANENT HAIRS.

819 — COLT'S INC. FIRE ARMS DIVISION (Hyshope Ave. Hartford connecticut· West Hartford connecticut).

820 — COLUMBIA AQUARIUM INC.

821 — COMET.

822 — COMMUNICATION SYSTEMS DIVISION.

823 — CONCORDANT CO. LTD.

824 — CONLECO.

825 — CONNECTICUT GENERAL LIFE INSURANCE CO. (Hartford connecticut 06115).

826 — CONNECTICUT MUTUAL LIFE INSURANCE CO. (140 garden street hartford Connecticut).

827 — CONSEJO DE LA EDUCATION (ISRAELITA) (Vaohajinuj).

828 — CONSEJO EJECUTIVO DE LA CONGRESO JUDIO MUNDIAL PARA ANNE LATINA.

829 — CONSTANCE SPRAY.

830 — CONSUL.

831 — CONSERVE RUBBER CO. (392 pearl street Malden Massachusette). et ses deux suc. : à California (284 harbor way south San Francisco California et à Illinois (2000 Mannheim merlose pak, Illinois).

832 — THE 721 CORPORATION.

833 — CORSAIR.

834 — CORTICELLI REAL ESTATE CORP. (1407 Broadway N.Y.C.).

835 — CORTINA.

836 — CORWEL.

837 — COUNCIL OF JEWISH FEDERATION AND WELFARE FUNDS, CJFWF. (315 park Avenue south New York, New York 10010).

838 — COVER GIRL SHOE CO.

839 — CREATORS (CANADA) LTD. TORONTO ONTARIO CANADA.

840 — CROSBY VALVE and GAGE INC. (43 Kendrick and Depot street wentham, Massachusetts).

841 — CURTIS INDUSTRIES.

842 — CURTIS NOLL CORP. (3915 st. clair Ave. Cleveland Ohio 44114 connue aussi : OHIO FORGE and MACHINE.

843 — CUYAHOGA CORP.

844 — CUYA HOGA LIME CO.

845 — CYCLONE.

846 — DAIPER-SIL CREME.

847 — DAN HOTEL CORP. N.Y. (120 east 50th N.Y.).

848 — DAYCO CORPORATION OHIO NEW YORK — connue aussi : DAYTON RUBBER CR.

849 — DBI.

850 — DEAR BORN FORM EQUIPMENT.

851 — DOFT and COMPANY (40 will street New York 5, N.Y., U.S.A.).

851/b — DOMINION SHOE CO.

852 — DONNER HANNA COKE CORP. (Buffalo, N.Y.).

853 — DONOVAN.

854 — DOUGLAS SHOE CO.

855 — THE DOUGLAS FUND INCORP.

856 — DUNCAN FOODS CO. (Houston, Texas).

857 — EAGLE INC. (800 n.E. second Avenue Miami, Florida, U.S.A.)*

858 — E.C. BAUM and ASSOCIATES (510 N. dearborn Chigago, lillinois).

859 — E.J. KORVETTE (1180 Avenue of the Américas New York, 10036). Nom Commercial de la soc. Américaine SPARTANS INDUSTRIES INC.

860 — EAGLE SHIPPING INC. (2060 Tallyrand Avenue Jacksonville florida, U.S.A.)*

861 — EASTERN SHOE MANUF.

862 — ECCO.

863 — ECONOLINE.

864 — EDUCATION DIVISION (600 Madison avenue N.Y., 10022).

865 — ELCO CONNECTORS.

866 — ELCC CORP.

867 — ELCO PACIFIC.

868 — ELECTRIC EQUIPMENT CO. (63 curlew street rochester N.Y.). Connue sous les deux noms :
1 — NORRY EQUIPMENT.
2 — NORRY ELECTRIC CORP.

869 — ELECTRIC MOTOR OF ROCHESTER N.Y.

870 — ELECTRO FKASHCOTE.

871 — ELCO HUNTINGTON CORP.

872 — ELECTRO PAINTLOK.

873 — ELCO DISTRIBUTOR DIVISION.

874 — ELECTRO ZINCBOND.

875 — ELCO OPTISONIES DIVISION.

876 — ELECTRONIC COMPONENTS AND DEVICES (415 south fifth street Harison New Jersey).

877 — ELECTRONIC COMPONENTS AND DEVICES DIVISION (1351 Roosevelt Avenue Indianapolis, Indiana).

878 — ELECTRONIC COMPONENTS AND DEVICES (front and cooper street, camden New Jersey).

879 — ELECTRONIC FILMS INC. (Burlington Massachussetts).

879/b — ELECTRONIC-OPTICAL SYSTEMS INC. PASADENA, CALIF.

880 — ELECTRUNITE.

881 — ELLIOT PUBLISHING CO. INC.

882 — ELOX (DIVISION) LLOX NO-WEAR

883 — ELTRA CORPORATION.

884 — ELCO INTERNATIONAL CORP.

885 — ELCO MEDWEST.

886 — EMERSON RADIO INTERNATIONAL CORP. (680, 5th, ave. New York N.Y., 10022) connue aussi : EMERSON RADIO EXPORT CORP.

887 — EMHART CORP. (850 Cottage Ojrove road) Connue Maintenant : AMERICAN HARDWARE CORP.

888 — EMU-4.

889 — ENCYCLOPEDIA JUDAICA INC.

890 — ENAMELITE.

891 — ENCYCLOPAEDIA JUDAICA RESEARCH FOUNDATION.

892 — ENDURO.

893 — ENGLISH AMERICAN TAILORING CO.

894 — ENGINEERING and RESEARCH CENTER.

895 — ENTUSUL.

896 — ETERNA «27» CYCLE OF BEAUTY TREATMENT.

897 — EVAN PICONE, INC. (1407 Broadway N.Y.C.).

898 — EVAN PICONE, INC. (7020 Kennedy Blvd. North Bergen, New Jersey).

899 — EVELETH TACONITE CO. (Duluth, Minnesota).

900 — EXPORT PROCUREMENT CORP. (99 Park Avenue, N.Y. 16).

901 — FAIRBANKS MORSE INTERNATIONAL PUMP. DIVISION, COLT INDUSTRIES INC. (Glen Rock, New Jersey, U.S.A.).

902 — FAIRBANKS MORSE POWER SYSTEM DIVISION (710, Lawton Avenue Beloit, Wisconsin).

903 — FAIRBANKS MORSE PUMI DIVISION (3601 - Kansas Avenue Kansas City - Kansas).

904 — FAIRBANKS MORSE WEIGTHING SYSTEM DIVISION, (19-01 Jersey St. Johnsburg Vermont, East Moline Illinois).

905 — FA.RLANE.

906 — FALCONS.

907 — FAMOUS AUTHORS LTD.

908 — FANTA.

909 — FARROWTEST.

910 — FEDERACION SIONISTA. UNIVERSITARIA.

911 — FEDERACION SIONISTA. REVISIONISTA.

912 — FEDERATION OF JEWISH PHILANTHROPIES OF NEW YORK.

913 — FEMICIN.

914 — FERROBORD.

915 — FIAMMA.

916 — FIDUCIA INCORPORATED.

917 — FIDELITY MUTUAL LIFE INSURANCE CO. (The Parkway & Fairmount Av. Philadelphia, Pennsylvania 19101.

918 — FINANCIAL INSTITUTIONS GROWETH FUNDING.

919 — FINGERTIP TANS.

920 — FLAGG. BROS.

921 — FLAGG UTICA CO.

922 — FLEETWOOD.

923 — FLEETWOOD COFFEE CO.

924 — FLURIDE, VITAMIN

925 — FOMOCO.

926 — FORD.

927 — FORD AUTHORIZED LEASING SYSTEM.

928 — FORD «D».

929 — FORD, LEASING DEVELOPMENT Co. (2000 Rotunda drive dearborn. Michigan).

930 — FORD MOTOR CO. (P.O.B. 600, Wixon Michigan 48090).

931 — FORD MOTOR CREDIT CO. (2000 Rotunda drive Dearborn Michigan).

932 — FORD MOTOR CREDIT CO. INTERNATIONAL (Dearborn Michigan).

933 — F-100 PICK-UP.

934 — FORD PRODUCTS CO. (Dearborn Michigan).

935 — FORD RENT-A-CAR-SYSTEM.

936 — FORD TRACTORS.

937 — FORDSON.

938 — FOREIGN TRADE EXCHANGE. 510, S. ERVAY ST. Merchandise-Mart Bldg. DALLAS TEXAS.

939 — The FOREST CITY MATERIAL CO. (Cleveland, Ohio, U.S.A.).

940 — FORMIT ROGERS.

941 — FORTUNE, SHOE CO.

942 — FOUR ROSES DISTILLING CO. LTD.

943 — FRANK BROS. FENNFEINSTEIN. (New York).

944 — FRANKFORT DISTILLERS CO. (375 Park Avenue, New York 10022).

945 — FRESCA.

946 — FRENTE, RELIGIOSO, UNIDO.

947 — FROMM and SICHEL INC.

948 — FUND AMERICAN.

949 — GALAXIE 500-7-LITRE.

950 — GALIS MANUFACTURING COMPANY OF FAIRMONT.

951 — GALVITE.

952 — GEODING, JENNY, INCOR.

953 — GENERAL CHEMICAL and ADHESIVE CO.

954 — GENERAL THREAD MILLS INC. (1407, Broadway, N.Y.C.).

955 — GENERAL TIRE INTERNATIONAL CO.

956 — GENERAL WINE and SPIRINS CO. (375 Park Avenue, N.Y. 10022).

957 — GENESCO EXPORT CO.

958 — GENESCO INC. (111-7th Ave. N. Nashville Tennessee 37202). (730 Fifth Ave. New York N.Y. 10019).

959 — GEORGE D. ROPPER and CO.

960 — GESCO MANUFACTURING.

961 — GIDDING-JENNY INC. et ses deux suc : — CINCINNATI - OHIO.
— DAYTON - OHIO.

962 — GILBERTON COMPANY INCORPORATION (101-5th Ave., 3 Rd. floor New York, N.Y. 10003).

963 — GILBERTON WORLD WINE PUBLICATIONS INC.

964 — GLACIER SAND AND GRAVEL CO.

965 — GLOBAL TOURS.

966 — GRANITE STATE RUBBER CO. (Berlin New Hampshire).

967 — GRAPHIC SYSTEMS DIVISION.

968 — GREAT UNIVERSAL STORES INC.

969 — GRETNA.

970 — GUIDE - LINED.

971 — H.C. BOHACK and Co. INC. (Metropolitan and Flushing ave. 3 New York, N.Y.).

972 — H. GREEN and CO.

973 — HAND M. WILSON OPERATION CADANY, California).

974 — COMMITE DES FEMMES ISRAELIENNES : Hadassah, The Women's Zionist Organization of America Inc. (65 East 52nd. st. New York N.Y.).

975 — HAMMOND.

976 — HARODITE FINISHING Co. (66 South Street Tauton Massachusetts).

977 — HERANT ENGINEERING DIVISION.

978 — HARRY WINSTON MINERALS OF ARIZONA INC. et son usine à l'Arizona Sous l'Adresse suivant : (West Pecos Road Chandler Arizona).

979 — HARTZ MOUNTAIN PET FOODS INC.

980 — HARTZ MOUNTAIN PRODUCTS CORP. (50 Cooper Square New York City).

981 — HAWAII-KAI CO. SERVICES CO.

982 — HEEL'N TOE.

983 — HELINONE.

984 — HENRI BENDEL INC. (N.Y. City).

985 — HERRING BONE.

986 — HERTZ COMMERCIAL LEASING CORP. (de Laware).

987 — HERTZ CORP. (660 Madisson Ave. New York, N.Y.).

988 — HERTZ EQUIPMENT RENTAL CORP.

989 — HERTZ INTERNATIONAL LTD Connue avant : (HERTZ AMERICAN EXPRESS INTERNATIONAL, (660 Madison ave. New York).

990 — HERTZ LEASE PLAN INC.

991 — HERTZ REALTY CORP.

992 — HERTZ SYSTEM INC. Delaware.

993 — HERTZ VEHICLES MANAGEMENT CALIFORNIA CORP.

993/b — HERTZ VEHICLE & MANAGEMENT CORP.

994 — HERTZ VEHICLES MANAGEMENT NEW YORK CORP.

995 — The HICKORY, PUBLISHING CO. (310 North Ave. N.Y., Atlanta Georgia 30313).

996 — HILL SAMUEL INC.

997 — HI-PALS FOOTWEAR INCORP.

998 — HILLWOOD SHOE CO.

999 — HOLIDY - WISE.

1000 — HOME INSTRUMENTS DIVISION, (600 North Sherman Ave. Indianapolis Indiana).

1001 — HOUSE OF SEAGRAM INC.

1002 — HUGGINS YOUNG COFFEE CO.

1003 — HUGGINS YOUNG GOURMENT MOCHA JAVA.

1004 — HUGGINS YOUNG SUPREME.

1005 — HUMBOLDT MINING CO.

1006 — HUNGTER-WILSON DISTILLING CO. INC.

1007 — HUNTINGTON CREEK CORP.

1008 — I. MILLER and S[illegible] INC. New York City.).

1009 — ISRAELI ASSORTED.

1010 — ISRAEL FUND DISTRIBUTORS INC

1011 — INCH-MARKED.

1012 — INDEPENDENCE ACCEPTANCE CORP. (Philadelphia, PA).

1013 — INDUSTRIAL COMPUTORS DIVISION (3900 Monet Rd., Palm Beach Garden, Florida).

1014 — INFORMATION SYSTEMS DIVISION (Rochester New York 14063).

1015 — INGENIERIA Y. CONSTRUCIONES KAISER S.A.

1016 — INLAND CREDIT CORP. (11 West 42nd Street N.Y.).

1017 — INNES. (Los Angeles - California).

1018 — INTERNATIONAL DENTAL PRODUCTS INC. (Richmond Hill 18, L.I.N.Y.).

1019 — INSTANT PATENT LEATHER.

1020 — INTERNATIONAL,PACKERS LTD.

1021 — IN-TER-LINE.

1022 — INTERSTATE SHOE CO.

1023 — INTIMATE CRYSTALLINE SPRAY MIST.

1024 — INTIMCO.

1025 — INVESTORS OVERSEAS SERVICES PANAMA CITY.

1026 — ISRAEL ALABAMA WIRE CORP. LTD.

1027 — ISRAEL AMERICAN DIVERSIFIED FUND INC. (54 Wall Street, New York, N.Y. 10005).

1028 — ISRAEL EDUCATION FUND OF THE UNITED JEWISH APPEAL.

1029 — ISRAEL ENERGENCY FUND.

1030 — ISRAEL FUND DISTRIBUTOR.

1031 — ISRAEL FUNDS MANAGEMENT CORP. (54 Wall Street New York N.Y.).

1032 — ISRAEL MIAMI GROUP. (DAN HOTEL CHAINE) 1 — Lincoln Road Miami Florida.

1033 — ISRAEL SECURITIES CORP. 17E - 71st Street N.Y.C.).

1034 — J.A. JOHNSTON CO. *

1035 — J.K. COOK and CO. (World Trade Center Houston Texas, U.S.A.)*

1036 — J.M. WOOD MANUF. CO. INC.

1037 — JANRICO INC. à (Portorico).

1038 — JARMAN RETAIL CO.

1039 — JERMAN SHOE CO.

1040 — JERYL LIGHTING PRODUCTS CO. (Chicago, U.S.A.).

1041 — JEWISH WAR. VETERANS OF THE U.S.A. JWV. (New Hampshire Ave. N.Y. 2, Washington, D.C.).

1042 — JOHN HARDY. SHOE. STORES.

1043 — JEWISH WELL FARE FUND.

1044 — JOHNSTON and MURPHY SHOE Co.

1045 — JOINT DISTRIBUTION COMMITEE.

1046 — JOLIE MADAME.

1047 — JUDEA. ART. IMPORTERS INC. (21 Orchard Street New York N.Y., 10002).

1048 — JULIUS KESLER DISTILLERY. CO. LTD.

1049 — K. HETTLEMAN and SON.

1050 — K. and S METAL SUPPLY INC.

1051 — KAISER AEROSPACE and ELECTRONICS CORP, Adresse principale : (Kaiser Center 300 Lakeside drive Oakland, California, 94604) et ses Usines Sont à :

— SAN LEANDRO, California (Usine-fabrique pour les instruments des avions.

— PALO ALTO, California (fabrique pour les instruments electroniques)

— GLENDAIE à California, (fabrique pour les instruments electroniques)

— ARIZONA à PHOENIX, (fabrique pour les instruments electroniques)

1052 — KAISER. ALUMINIUM.

1053 — KAISER ALUMINIUM and CHEMICAL SALES INC.

1054 — KAISER ALUMINIUM INTERNATIONAL CORP.

1055 — KAISER ALUMINUIM INTERNATIONAL, INC.

1056 — KAISER, CEMENT and GYPSTUM CORP. (Kaise, Center-300 Lakside drive Oakland, California, 94604).

1057 — KAISER CHEMICAL INTERNATIONAL.

1058 — KAISER CO. ENGINEERING and CONSTRUCTION.

1059 — KAISER CO. INC. ENGINEERING AND CONSTRUCTION.

1060 — KAISER COX. CORP.

1061 — KAISER ELECTRONICS INC.

1062 — KAISER ENGENHARIA, F. CONSTRUCOES, LIMITADA.

1063 — KAISER ENGINEERS and CONSTRUCTION INC.

1064 — KAISER ENGINEERS FEDERAL INC. U.S.A.

1065 — KAISER ENGINEERS INC. ENGINEERING and CONSTRUCTION IN Michigan.

1066 — KAISER ENGINEERS INTERNATIONAL CORP.

1067 — KAISER ENGINEERS OVERSEAS CORP.

1068 — KAISER FOUNDATION.

1069 — KAISER FOUNDATION, HEALTH PLAN OF OREGON.

1070 — KAISER INTERNATIONAL LTD.

1071 — KAISER INTERNATIONAL LTD.

1072 — KAISER JEEP INDUSTRIES CORP.

1073 — KAISER JEEP SALES CORP.

1074 — KELITA SPORTSWEAR CO.

1075 — KENDALL REFINING CORP.

1076 — KENMORE.

1077 — KINGS COUNTY LAFAYETTE TRUST CO. (200 Montague St. Brooklin N.Y.) Connue avant : LAFAYETTE NATIONAL BANK.

1078 — KINGS BORO MILLS.

1079 — KLEVEN SHOE CO. INC.

1080 — KNOMARK (ESQUIRE) INC. (132-20 Merick Blvd. Spring Field Gardens N.Y.).

1081 — KNOPF-BOOKS (427 Madison Ave. New York).

1082 — L. GRIEF and BROS.

1083 — LADOLCE.

1084 — LADY ESQUIRE.

1085 — LAWRENCE SCHACHT. (200, E. 57th St. N.Y. City).

1086 — LEARNING MATERIALS INC. (New York, N.Y.).

1087 — LEATHER BALM.

1088 — LEFF FOUNDATION (350 Fifth Ave. New York City).

1089 — The LEMBERG FOUNDATION, (400 Madison Avenue N.Y.C.).

1090 — LEUMI SECURITIES CORP. (60 Broad. Street - New York 4, New York.).

1091 — LEXIM.

1092 — LIBERIA MINING CORP. LTD. (35 Motor Ave. Farmingdale L.1, N.Y.).

1093 — LIBERTY INDUSTRIAL PARK CORP. (Mator Ave. Farmingdale New York).

1094 — LILY MILLS CO. (395 Broadway New York City).

1095 — LINCOLN CONTINENTAL.

1096 — LINCOLN-MERCURY DEALER LEASING ASSOCIATION.

1097 — LIPSCHUTZ and GUTWIRTH CO. (1270, 6th Ave., Room 2701, N.Y.C.).

1098 — LITWN CORPORATION.

1099 — LOCORE.

1100 — LOFT CANOY CORP. (Long Island City, N. Y. 11101).

1101 — LOVE PAT.

1102 — LOS ANGELLES LYNWOOD OLL DALLE WATGON.

1103 — MACCO. PRODUCTS CO.

1104 — MADEIRA KNITS LTD.

1105 — MAGNETIC PRODUCTS DIVISION (6800 East 30th Street, Indianapolis - Indiana).

1106 — MAJESTIC SPECIALITIES CO.

1107 — MAJOR BLOUSE CO.

1108 — MALLERNEE'S NEW YORK.

1109 — The MANHATTAN SHIRT CO.

1110 — MANNEQUIN SHOE CO.

1111 — MANNKRAFT CORP.

1112 — MANSCO.

1113 — MARYLAND CLUB.

1114 — MAZON.

1115 — MC. GREGOR DONIGER INC. (660 Fifth Ave. New York 19, N.Y.).

1116 — MECHANICAL MIRROR WORKS OF NEW YORK, (661 Edgecombe Ave. New York, N.Y.).

1117 — MERCURY and MERCURY S, 55.

1118 — METAL LUMBER.

1119 — METEOR.

1120 — METROPOLITAN COUNCIL NEW YORK.

1121 — MEYER BROTHERS PARKING SYSTEMS INC.

1122 — MICRO-SYSTEMS INC.

1123 — MIMUTE MADE.

1124 — MINERALS and CHEMICALS.

1125 — MINERALS and CHEMICALS PHILIPP CORP.

1126 — MINKUS STAMP and PUBLISHING CO.

1127 — MINUTE MAID GROVES CORP. (ORLANDO-FLORIDA).

1128 — EMPIRE STAMP GALLERIES Orlando FLORIDA.

— 1 — EMPIRE STAMP GALLERIES, (Washington).
2 — EMPIRE STAMP GALLERIES, (California).
3 — MINKUS STAMP, GALLERIES (Texas).
4 — MINKUS STAMP GALLERIES, (Pennselvania).

1129 — MISSILE and SURFACE RADAR DIVISION.

1130 — MISSOURI ROGERS CORP. (Joplin, Mo).

1131 — MOCHA - JAVA.

1132 — MODA SHOE CORP. - RO. SEARCHM.

1133 — MODERN ORTHO PEDIC.

1134 — MONSIEUR BALMAIN.

1135 — « MOON DROPS » MOISTURIZING BATH OIL.

1136 — MOON DROPS MOISTURE LIPSTICK.

1137 — MORDECAI LAND AND INVES.

1138 — MOTOR WAY., INC. (N.Y.).

1139 — MOVIMENTO SIO. NISTADE TRABAJO.

1140 — MOVIMENTO SIONISTA partidarie.

1141 — MULTICUT.

1142 — MURRAY HILL LODGE.

1143 — MURPHY RETAIL CO.

1144 — MUSTANG.

1145 — MUTUAL LIFE INSURANCE CO. OF NEW YORK (1740 Broadway New York, N.Y.).

1146 — NASHVILLS AVENUE REALTY CO. INC.

1147 — NASSAU BRASSIERE CO.

1148 — NATIONWIDE SHOE CO.

1149 — NATIONAL BROADCASTING CO. INC. (N.B.C.).

1150 — NATIONAL COMMUNITY RELATION ADVISORY COUNCIL - NCRAC. (55 West 42nd street New York 10036).

1151 — NATIONAL COUNCIL OF JEWISH WOMEN INC. (NCJW) (1 West 47th street New York 10036).

1152 — NATIONAL JEWISH WELFARE BOARD J.W.B. (145 east 32nd street New York 10016).

1153 — NATIONAL SPINNING CO. (350 fifth avenue N.Y.).

1154 — NATIONAL STEEL and TINPLATE WAREHOUSE INC. (2001 south delaware 48 Pennsylvania).

1155 — NATIONAL WORSTED MILLS (Jamestown New York) et son usine à : FLACONER — New York.

1156 — NATIONAL YARN CORP. (Cleveland Ohio).

1157 — NATIONAL YARN CORP. (110, 9th street Los Angeles California).

1158 — NATURAL WONDER MEDICATED TOTAL SKIN LOTION.

1159 — N.B.C. ENTERPRISES.

1160 — N.B.C. NEWS.

1161 — N.B.C. RADIO NETWORK.

1162 — N.B.C. STATIONS and SPOT SALES

1163 — N.B.C. TELEVISION NETWORK.

1164 — NILATIL.

1165 — NOONAN T. SONS CO. (1350 Columbia road boston Massachusetts) et ses suc dont les adresses sont : (430 warberley Framingham à Massachusetts).

1166 — NOXON MILLS INCORP. DALTON GEORGIA.

1167 — NORRY ELECTRIC CORP. (63 curlew street rochester N.Y.). Comme encore : ELECTRIC EQUIPMENT CO.

1168 — NORRY EQUIPMENT (63 Curlew Street, Rochester N.Y.).

1169 — OLD COLONY TAR CO.

1170 — ORK. ENGINEERING CO.

1171 — ORION NEW YORK INC.

1172 — O.T. OPEN TRUSS.

1173 — OTTO PREMINGER FILM (et le vrai nom de la soc. cinéma est : SIGMA PRODUCTIONS INC. (711 fifth avenue New York N.Y.).

1174 — OVERSEAS AFRICAN CONSTRUCTION CO.

1175 — OVERSEAS PUBLIC UTILITIES and GAS CORP. (55 West 42nd st. borough of Manhattan, New York).

1176 — OWENS ILLINOIS.

1177 — OWENS ILLINOIS GLASS CO. INC. (Box, 901 Toledo, OHIO, V.S.A.).

1178 — Succ. du FIRME no. 1177 : GLASS container Division — Closure plants — Sand plants — Machine shops — Ink and die plant — shops — consumer and technical products division — Kimble products plants — Industrial and electronic products plants — Forest products division — Corrugated shipping container plants — Multiwall and plastic shipping saks plants — Fibre can plants — Plastic products division.

1179 — OWENS - ILLINOIS INTER-AMERICA CORP. (Toledo, Ohio).

1180 — OWENS ILLINOIS INTERNATIONAL DIVISION, (Toledo, Ohio).

1181 — PACIFIC COCA-COLA BOTTLING CO. (1313 E Columbia street seatile Washington 98122).

1182 — PACIFIC MILLS DOMESTICS.

1183 — PACIFIC POLYMERS INC. à (California).

1184 — PALESTINE ENDOWMENT FUNDS INC. (30 broad street N.Y.C.).

1185 — PANTHEON BOOKS (427 madison ave. N.Y.).

1186 — PARIS MANUFACTURING CO.

1187 — PATINA CLEANER.

1188 — PATERSON PERTHAMBOY.

1189 — PAUL JONES and CO. INC.

1190 — PAUL MASSON INC.

1191 — PEARL IMPORT EXPORT CO. INC. (New York).

1192 — PENNSYLVANIA COAL and COKE (115 aghcroft ave. cresson, Pennsylvania).

1193 — PERMANENTE STEAM SHIP CORP

1194 — PERMANENTE TRUCKING CO.

1195 — PERVELANE.

1196 — PERVINAL.

1197 — PETROLIA (Pennsylvania).

1198 — 34 PET. SHOP INC.

1199 — PHARMA-CRAFT CORP.

1200 — PHILCO CORP. (tiog[illegible] and C. streets Philadelphia, Pennsylvania).

1201 — PHILCO FINANCE CORP. (Philadelphia).

1202 — PHILCO'S INTERNATIONAL DIVISION (Philadelphia-pa).

1203 — PHILIPP BROS. LATIN AMERICAN CORP.

1204 — PHILIPP BROS METAL CORP. (New York).

1205 — PHOENIX INC.

1206 — PILOT.

1207 — POLICLEAN WHIRLPOOL R.C.A.

1208 — POROCEL CORP.

1209 — PRATT and WHITNEY MACHINE TOOL DIVISION (Charter oak Blvd. West Hartford Connecticut).

1210 — PREFECT.

1211 — PRINCESS MARCELLA BORGHESE

1212 — PROFESSIONAL LIBRARY SERVICE (SANTA ANA California).

1213 — PROGRESS WEBSTER ELECTRON CO.

1214 — PROSPECT CORP.

1215 — PROVIDENT MUTUAL LIFE INSURANCE OF PHILADELPHIA (4601 market street Philadelphia pennsylvania).

1216 — PUB.

1217 — PUERTO RICAN CARS INC.

1218 — PYRAMID SHOE MANUF.

1219 — QUIK-EASE.

1220 — QUINCY COMPRESOR DIVISION (217 maine street quincy Illinois).

1221 — R.A.M. RETAIL APPAREL FOR MEN (New York).

1222 — R.C.A. (Central & terminal aves clark New Jersey).

1223 — R.C.A. 301.

1224 — R.C.A. 501.

1225 — R.C.A., G01

1226 — R.C.A. BROADCAST and COMMUNICATIONS PRODUCTS DIVISION.

1227 — R.C.A. COMMERCIAL RECEIVIEG TUBE and SEMI-CONDUCTOR DIVISION.

1228 — R C.A. COMMUNICATIONS INC.

1229 — R.C.A. DEFENSE ELECTRONIC PRODUCTS.

1230 — R.C.A. ELECTRONIC COMPONENTS and DE\"CES.

1231 — R.C.A. ELECTRONIC DATA. PROCESSING DIVISION.

1232 — R.C.A. GRAPHIC SYSTEMS DIVISION.

1233 — R.C.A. INSTITUTES INC.

1234 — R.C.A. INTERNATIONAL.

1235 — R.C.A. LABORATORIES.

1236 — R.C.A. PARTS and ACCESSORIES.

1237 — R.C.A. SALES CORP.

1238 — R.C.A. SERVICE CO. DIVISION.

1239 — R C.A. SPECIAL ELECTRONIC COMPONENT DIVISION.

1240 — R.C.A. SPECTRA 70.

1241 — R.C.A. SPECTRA 70/15.

1242 — R.C.A. SPECTRA 70/25.

1243 — R C.A. SPECTRA 70/35.

1244 — R.C.A. SPECTRA 70/45.

1245 — R.C.A. SPECTRA 70/55.

1246 — R.C A. TELEVISION PICTURE TUBE DIVISION.

1247 — R.C.A. TK, 42.

1248 — R.C.A. 3301 REALCOM.

1249 — R.C.A. VICTOR.

1250 — R.C.A. VICTOR COMPANY LTD.

1251 — R.C.A. VICTOR DISTRIBUTING CORP.

1252 — R.C.A. VICTOR HOME INSTRUMENTS DIVISION.

1253 — R.C.A. VICTOR RECORD DIVISION.

1254 — R.C.A. WHIRPOOL.

1255 — R.C.A. WHIRLPOOL CORP.

1256 — RANCHERO.

1257 — RANDON HOUSE INC.

1258 — RASSCO ISRAEL CORP. Centre principal à U.S.A. (535 Madison avenue New York, N.Y. 10022).

1259 — RAVNE-DELMAN SHOE CO.

1260 — READY, 4.

1261 — REAL GOLD.

1262 — THE REALISTIC CO. (3264 beckman st. cincinnati, OHIO).

1263 — REPLIQUE.

1264 — REPUBLIC SHOE CO.

1265 — THE REPUBLIC STEEL CORP. (225 W., prospect ave. Cleveland 15 Ohio).

1266 — REPUBLIC SUPPLY CO.

1267 — RESEARCH and ADVANCED ENGINEERING DIVISION (rochester New York 14603).

1268 — RESERVE MINING CO. (Silver bay and rabbitt minnesota).

1269 — REVLON COSMETICS (talmadge road Edison New Jersey).

1270 — REVLON HAIRCOLOR CLINIC (810 W., Olympic Los Angeles Calif.).

1271 — REVLON HAIR COLOR INSTITUTE (5455 Wilshire blvd. Los Angeles, Calif.).

1272 — REVLON IMPLEMENTS CORP. (190 colt street irvington New Jersey).

1273 — REVLON INC. (7630 8 st., Industry pico riviera Calif.)

1274 — REVLON INC. (100, 8th street passaic N.J.).

1275 — REX-INTERNATIONAL.

1276 — REVLON INC. LABS (945, ZEREGA Avenue bronx N.Y.).

1277 — REVLON RESEARCH CENTER.

1278 — RIDGEFIELD MANUFACTURING.

1279 — RIGID-FLOOR.

1280 — RIGID-RIB.

1281 — RIVER TERMINAL RAILWAY CO.

1282 — ROCKEFELLER LAURENCES A. ASSOCIATE (30 Rockefeller plaza New York 20, N.Y., U.S.A.).

1283 — ROGER KENT New York.

1284 — ROYAL LYNNE LTD. (530, 7th Ave. N.Y.C.).

1285 — RUMAC MOLDED PRODUCT.

1286 — S.H. KRESS and CO.

1287 — SCHACHT FOUNDATION.

1288 — SEAL KING.

1289 — SENTY SHOE CO.

1290 — SCHACHT STEEL CORP. (465 Hillsdale ave. Hillsadle 5, N.Y.).

1291 — SEA BOARD MANUF. CO.

1292 — SEA GRAM DISTILLERS CO. (375 Park ave. New York 10022).

1293 — SEAGRAM OVERSEAS SALES CO. (375 park ave., New York, N.Y. 10022).

1294 — THE 721 CORPORATION.

1295 — SHAPIRO (MICHAEL and RAE) and FAMILY FOUNDATION INC. (5400 north 27th street milwaukee 9, Wisconsin).

1296 — SIGMA PRODUCTION INC. (711 (fifth ave. New York, N.Y.).

1297 — SILVER SLICK.

1298 — SNOW CORP.

1299 — SOLCOOR INC. OF New York (850 third avenue and corner 51 street New York 10022).

1300 — SOMMER and KAUFMANN SAN FRANCISCO (California).

1301 — SOUTHERN STEAMSHIP AGENCY*

1302 — SOUTHERN SOLE CO.

1303 — SOVEREIGN SHOE CO.

1304 — SPARTANS INDUSTRIES INC. nom officiel de la soc. : E.J. KORVETTE. Comm nom Commercial (1180 ave. of the america, New York 10036).

1305 — SPRITE.

1306 — STAPLES and SPECIALTIES INTERNATIONAL (551 fifth avenue New York 17, N.Y.).

1307 — STERLING DIE OPERATION (Cleveland OHIO).

1308 — THE STONE CHARITABLE FOUNDATION INC. (c/o Alford P.).

1309 — STONE CONTAINER CORP. (STONE container building Chigago Illinois 60601).

1310 — STOWELL SILK SPOOL CORP. (50 east 42 street N.Y.C.).

1311 — STREET BROS. (9 mid atlantic WH Arf. Charleston south Carolina 29401, U.S.A.)*

1312 — SUSAN MERCANTILE CORP.

1313 — SWEEPING BEAUTY.

1314 — T. NOONAN and SONS CO. (1350 Columbia road boston Massachusetts)

1315 — T.O.S. (TIROA OPERATIONAL SATELLITES).

1316 — TAB.

1317 — TANKORE CORP.

1318 — TAPES and RECORDS DIVISION (6550 east 30th street indianapolis Indiana).

1319 — TAR DISTILLING CO. INCORP.

1320 — TAUNUS 12M.

1321 — TAUNUS 15M.

1322 — TAUNUS 17M.

1323 — TAUNUS 20M.

1324 — TAUNUS TRANSIT TRUCKS.

1325 — TECTROL SERVICE.

1326 — TAWNY.

1327 — TEMCO INTERNATIONAL CORP. (1825 connecticut ave. Washington 9, D.C.).

1328 — TENCO (Linden, New Jersey).

1329 — TENCO.

1330 — THAMES VANS.

1331 — THAT MAN SPRAY DEODORANT BODYTALC.

1332 — THAYER (20 miller drive metuchen, New Jersey).

1333 — THAYER LABORATORIES INC. (666-5th avenue, New York, N.Y.).

1334 — THOMAS J. WEBB (3 vee's bird feeds inc).

1335 — THUNDERBIRD.

1336 — TINTEX CORP., N.Y.

1337 — TIP-TOP.).

1338 — TOP-BRASS.

1339 — TOUCH and GLOW.

1340 — 34 PET SHOP INC.

1341 — 3, VEE'S BIRD FEEDS INC.

1342 — TRIANGLE SHOE MANUF. CO.

1343 — TRUS-CO. POST.

1344 — TRUSCON - TRU - DIAMOND.

1345 — TRUSSPAN.

1346 — TRUSTEED FUNDS INC. (53 Arlington street brockton Massachusetts).

1347 — TRUST-T-POST.

1348 — U.S. PEROXYGEN COMPANY.

1349 — U.S. VITAMIN and PHARMACEUTICAL CORP.

1350 — « ULTIMA-11 » MAKEUP SERIES.

1351 — ULTRAMAT.

1352 — ULTRA CHEMICAL WORKS INCORP.

1353 — UNION DRAWN STEEL CO. LTD.

1354 — UNITED JEWISH APPEAL FOR FILM INDUSTRY.

1355 — UNITED INVESTORS CORP.

1356 — UNITED IHAS SERVICE INC. (UHS) Centre principale : (200 park avenue south New York, N.Y. 10003).

1357 — UNIVERSITY MICROFILM INC. (ann arbor Michigan).

1358 — V.J. ELMORE.

1359 — VALCAR RENTALS CORP. and SUBSIDIARIES.

1360 — VALENTINE SHOE CO.

1361 — VALLEY GOLD.

1362 — VALMORE LEATHER CO.

1363 — VANESS PRODUCTS, INC.

1364 — VAPO NEFRIN.

1365 — 3, VEE'S BIRD FEEDS INC.

1366 — VEGA TRADING CO.

1367 — VENCE IRON and STEEL CO.

1368 — VENT-VERT.

1369 — VICTOR FISCHEL and CO. INC.

1370 — VICTROLA.

1371 — VIRGINIA DYEING CORP.

1372 — VISION-VENT.

1373 — W.C. THAIRWALL and CO. INC.

1374 — WEATHEROGUE INC.

1375 — WEDGE-LOCK.

1376 — WEG MATIC.

1377 — WEL BILT INTERNATIONAL CORP (475 fifth avenue New York, N.Y. 10017).

1377/b — WELLCO ENTERPRISES INC.

1378 — WELL CO. SHOE (Jamaica) LTD.

1379 — WHIRPOOL CORP.

1380 — WHIRPOOL ICEMAGIC R.C.A.

1381 — WHITEHALL LEATHER CO.

1382 — WHITFIELD CHEMICAL CORP.

1383 — WHITEHOUSE and HARDY (New York).

1384 — ASSOCIATION JEHOVA.

1385 — WILLYS OVERSEAS S.A.

1386 — WITCO CHEMICAL (INTERNATIONAL DIVISION Sonneborn products)

1387 — X. TRU-COAT.

1388 — X. TRUBE.

1389 — XEROX FUND (P.O. Box 1540 rochester 3, N.Y.).

1390 — THE YORK FUND INCORP.

1391 — YOUNG TIMER SHOE CO.

1392 — ZENITH SHOE CO.

1393 — ZEPHYR.

1394 — ZODIAC.

1395 — ZUNINO ALTMAN INC. (101 real road ave. Ridgefield New Jersey).

1396 — DAN HOTELS GROUP (522 fifth Avenue, New York, N.Y. 10036).

1397 — AJAX ELECTRIC MOTOR OF ROCHESTER N.Y.

1398 — R.K.O. GENERAL INC.

1399 — TRANSMISSION PRODUCTS INC.

1400 — FUND OF AMERICA INC. (90 Park Ave. N.Y. 100017).

1401 — INTERPACE CORPORATION connue aussi THE LOCK JOINT PIPE CO.

U.S.A

1 — ANNISTON CITY
2 — ARIZPA
3 — ARMONK
4 — ADOLPH SPERLING
5 — ALCOA PIONEER
6 — ADABELLE LYKES
7 — DENTON (Ex : Wang Juror)
8 — EXCHESTER
9 — EXANTHIA
10 — EXIRIA
11 — EXTAVIA (Ex : Empire Oriole — Ex : Extavia)
12 — EXECUTOR
13 — EXPRESS
14 — INDIAN BEER
15 — IKE
16 — JESSE LYKES
17 — MOBILUBE
18 — MISSISSIPI
19 — OCEANIC SPRAY (Ex : OVERSEAS REBECCA)
20 — SANTA VENETIA
21 — SOCONNET
22 — SEAFAIR
23 — SOLON TURMAN
24 — TRINITY
25 — TAMARA GUILDEN (Ex : Engedi)
26 — VELMA LYKES
27 — WANG DISPATCHER (Ex : Keren Mills)
28 — WEST PORT.

YOUGOSLAVIE

1 — KOMOVI (Ex : TRAVNIK)
2 — SUBICEVAC.

ADDITIF NO. 1, FIN DECEMBRE 1973

1427 — BOYNER SANAYI LTD. SIRKETI
1428 — IZAK PEREZ
1429 — ARSU IPLIK DOKUMA VE BOYAAFRE FABRIKALARI

NAVIRES BOYCOTTES

14 — B. RESIT PASA

NAVIRES LIBERES

8 — MARMARA

FIRMES ET ETABLISSEMENTS ETRANGERS PRIVES D'AGENCE DE SOCIETE ARABES

1 — SARK VAPUR ACANTASI (Kazim Direk Cad. No. 10 Izmir)

UGANDA

FIRMES BOYCOTTEES

3 — BANK XEROX UGANDA LTD.
4 — UNITEA LTD. (P.O.Box 3604, Kampala)

URUGUAY

FIRMES BOYCOTTEES

11 — FOREIGN TRADE BANK (Treinta Y. Tres 1470, Montévidéo)
— Cette firme remplace la firme qui porte le No. 7
12 — MANUEL GUELFI CIA
— L'importation de toutes les marques de Radios et Télévisions fabriquées par autorisation de ZENITH est interdite
— Cette firme remplace la firme qui porte le No. 10
13 — MISSORI S.A.
14 — O.R.T. (Organisation de Reconstruction et du Travail)

FIRMES LIBEREES

8 — BANCO AMERICANO ISRAELI

U.S.A.

FIRMES BOYCOTTEES

1402 — A.E.L. COMMUNICATIONS CORP. (Richardson road, Colmar, Pa. 18046)
1403 — A.E.L. SERVICE CORP. (Richardson road, Colmar, Pa. 18046)
1404 — A.J.D.C. AMERICAN JOINT DISTRIBUTION COMMITTEE
1405 — ACHILAN
1406 — AIR PRODUCTS & CHEMICALS INC. (Trexlertown, Pennsylvania)
1407 — AIR PRODUCTS & CHEMICALS INC. (Export DIV) 3. W - 57 Street, NYC 10019)
1408 — ALABAMA TEXTILE PRODUCTS CORP.
1409 — ALLOY STEEL CASTING COMPANY (Southampton Pennsylvania U.S.A.)
1410 — ALL STATE ENTREPRISES
1411 — ALL STATE FIRE INSURANCE CO. (ILL)
1412 — ALL STATE INSURANCE CO. (ILL)
1413 — ALL STATE INSURANCE INT. S.A.
1414 — ALL STATE LIFE INSURANCE CO.
1415 — ALLIED CONSTRUCTION CO. INC.
1416 — AMBASSADOR
1417 — AMERICAN ASSOCIATION FOR JEWISH EDUCATION (AAJE)
1418 — AMERICAN CONTINENTAL CO. (630, 5th, Ave, New York N.Y.)
1419 — AMERICAN - ISRAEL PHOSPHATES CO.
1420 — AMERICAN JOINT DISTRIBUTION COMMITTEE (A.J.D.C.) (60, East, 42nd, Street, New York, N.Y. 10017)
1421 — AMERICAN LABOR ORT.
1422 — AMERICAN LIFE INSURANCE COMPANY OF NEW YORK
1423 — AMERICAN MEDICAL INSTRUMENT CORP.
1424 — AMERICAN MOTORS CORP. (Detroit, Michigan, 48232)
1425 — AMERICAN ORT FOUNDATION

1426 — AMERICAN PHOTOCOPY EQUIPMENT CO (APECO) actuellement au nom de APECO CORPORATION (2100 Dempster Street, Evenston, Illinois
— L'importation de ses appareils photographiques est interdite
— Cette firme remplace la firme qui porte le No. 692

1427 — AMERICANA PRODUCTS OF PUERTO RICO INC. (Guayama, Puerto Rico)

1428 — AMPAL AMERICAN - ISRAEL CORP. avant AMPAL (AMERICAN PALESTINE TRADING CORP.
— Cette firme remplace la firme qui porte le No. 41

1429 — ANDREWS GLASS CO. (Vineland, New Jersey, U.S.A.)

1430 — ANGELA PRODUCTS INC. (Guayama, Puerto Rico)

1431 — ANIS PALOMA

1432 — APACHE FOAM

1433 — APECO CORPORATION (Boycottage partielle)

1434 — AQUA RHEM INC.

1434/b — ARROW. (Marque Commerciale des divers Habillements pour hommes et dames se rapportant aux deux firmes américaines : SANFORIZED CO. et GLAUETT PEABODY & CO. INC.

1435 — THE ARROW COMPANY (Troy - New York) et ses usines dans les pays suivants :
535 Fifth Avenue, New York City, Troy, Corinth, Waterford, Chester, New York, Leominster, Massachusetts, Lewistown, Shamokin, Elysburg, Williamsport, Huntington, Atlanta, Bremen, Buchanan, Cedartown, Georgia, Pennsylvania, Jasper, Carbon Hill, Al-Bertville Alabama, Virginia, Eveleth, Gilbert, Minnesota, San Francisco, California, New York, Chicago, Atlanta, Dallas San Francisco.

1436 — ARROW INTER-AMERICA, INCORPORATED (530 Fifth Avenue, New York City)

1437 — ATLANTA OXYGEN CO. (612, Travis Street N.V. Atlanta 15, Georgia et un autre adresse : 1424 N. Broad Street, Rome Georgia)

1438 — ATLANTIC

1439 — ATLANTIC PRODUCTS CORP. (Trenton - New Jersey)

1440 — ATLAS FINANCE CO.

1441 — AUTO LITE

1442 — AUTOMOTIVE INSURANCE COMP.

1443 — AT HOME WEAR INC.

1444 — B.L.C. SHOE CO.

1445 — B. & O. CASH STORE

1446 — BAKER EQUIPMENT CO.

1447 — BAKER MACHINERY CO.

1448 — BANKERS COMMERCIAL CORP.

1449 — BANKERS MORTGAGE COMP. OF CALIFORNIA

1450 — BARCELO MARQUES & CO. ARECIBO

1451 — BEAM - MATIC HOSPITAL SUPPLY

1452 — BEAUCHAINE & SONS INC.

1453 — BECKER RYAN & CO.

1454 — BENNETT CORP. (350 - 5th Ave. N.Y.C.
— L'importation de ses produits fabriqués par autorisation de la firme américaine BOTANY INDUSTRIES INC.) est interdite
— Cette firme remplace la firme qui porte le No. 743

1455 — BESSE RICHEY

1456 — BESTFORM FOUNDATION OF WINDBAR INC. (Windbar, Pennsylvania)

1457 — BESTFORM FOUNDATIONS INC. (38-0147 Avenue Long Island City, New York 11101)

1458 — BESTFORM FOUDATIONS OF CALIFORNIA INC. (259 Commercial Street, Pomona, California)

1459 — BESTFORM FOUNDATIONS OF PENNSYLVANIA INC. (Johnstown Pennsylvania)

1460 — BIO SYSTEMS INC.

1461 — BLASS ANTENNA ELECTRONICS CORP.

1462 — BLUE RIBBON PEN & PENCIL CO. INC. (Georgetown, Kentucky)

1463 — BOE JESTS INC. (550, 7th Av. New York N.Y.)

1464 — BOSTON WOVEN HOSE & RUBBER COMPANY (29, Hampshire Street, Cambridge Massachusetts)

1465 — BOTANY RETAIL STORES DIVISION

1466 — BOYD'S (Marque Commerciale)

1467 — BOYD'S (Nom Commercial)

1468 — BOYD RICHARDSON COMPANY

1469 — BRANT YARNS INC. (1412, Broadway)

1470 — BRITISH LEYLAND MOTORS INC. (600. Willow tree Road, Léonia, New Jersey)

1471 — BRITISH MOTORS CORP. (U.S.A.) LTD. (734 Grand Avenue, Ridgefield, New Jersey)

1472 — BUSINESS & PROFESSINAL ORT.

1473 — BERGDORF GOODMAN CO. INC. (754 Fifth Av. N.Y.)

1474 — BERGDORF GOODMAN FUR CORP. (2 West 58th Street, N.Y.)

1475 — C.B.S. INTERNATIONAL

1476 — C.B.S. MUSICAL INSTRUMENTS (1300 East Valencia, Fullerton Calif 12631)

1477 — C.B.S. THEATRICAL FILM DIVISION (connue aussi : CINEMA CENTER FILMS DIVISION)

1478 — CARLYLE SHIRT CO. INC. (350, Fifth Avenue (Room 315) New York, 10001)

1479 — CATALYTIC CONSTRUCTION CO. INC. (1528 Walnut Street - Philadelphia, Pennsylvania, U.S.A. et ses bureaux aux adresses suivants :
— 230 Park Avenue, New York, N.Y.
— 1810 Oakdale street, Tolédo, Ohio
— 1411, «K» Street, New Washington D.C.
— 6950 - Fair View Road, Charlotte, North Carolina

1480 — CHOICE VEND CORP.
— L'importation de ses disques fabriqués par la firme R.C.A. est interdite
1481 — CHOICE VEND DIVISION
— L'importation des disques fabriqués par la firme R.C.A. est interdite
1482 — CINEMA CENTER FILMS DIVISION (connue aussi) C.B.S. THEATRICAL FILMS DIVISION (16, East 52nd Street, New York, N.Y.)
1483 — CINEMA CENTER FILMS INC. (Cinema Center, C.B.S. Studio Center 4024 Radford) (Avenue North Hollywood, California 91601)
1484 — CLASTER ENTERPRISES INC. à Baltimore, Maryland
1485 — CLEVITE CORP. (1700, Claire, Avenue Cleveland Ohio 44110)
1486 — CLEVELAND GRAPHITE BRONZE DIVISION (1700 St. Claire, Av. Cleveland, Ohio 44110)
1487 — CLUB MEDITERRANEE INTERNATIONAL INC. (516, Fifth Av. New York)
1488 — CLUETT PEABODY AND CO. INC. (433, River Street, Troy, New York, U.S.A.) et 510 Fifth Av. New York 10036)
1489 — CLUPAK
1490 — CLUPAK INCORPORATED (530 Fifth Avenue, New York, N.Y.)
1491 — COCA COLA BOTTLING CO. OF GARY (1000 Calfax Street, Gary-Indiana 46400)
1492 — COFFEE'S
1493 — COLDFOT
1494 — COLT INDUSTRIES INTERNATIONAL INC.
1495 — COLUMBIA BROAD CASTING SYSTEM INC. (51, West 52 Street New York, N.Y. 10019, U.S.A.)
1496 — COLUMBIA RECORDS (799, 4th Av. New York)
1497 — COLUMBIA RECORDS SALES (51, West, 52nd Street, New York 10019)
1498 — COMMONWEALTHE UNITED CORP.
— L'importation de ses disques fabriqués par la firme R.C.A. est interdite
1499 — COMMODORE AVIATION INC. et ses succursales qui portent le même nom et leurs adresses :
— 3645 North West 28th Street Bethant, Pennsylvania
— Islip Mac Arthur Airport Rokoukoma long Island N.Y.
— 2001 Jefferson David Highway, Arlington, Virginia
1500 — COMPANIA DE INVERSIONE Y DISTRIBUIDORA S.A.
1501 — COMPANIA MINERVA SANTA FE
1502 — COMPANIA RON LLAVE A ABECIRO
1503 — CONGRESS FOR JEWISH CULTURE
1504 — CONTINENTAL MARK III
1505 — COPPER - KLEEN
1506 — EL COQUI
1507 — COUGAR
1508 — COUGAR GT.
1509 — COUGAR XR7
1510 — CUTLER HAMMER (4201 N. 27th Street, Milwaukee, Wis 53216)
1511 — CYCLONE GT.
1512 — CYCLONE SPOILER
1513 — DABCO 33-LV
1514 — DAYCO CORPORATION OHIO - NEW YORK (connue aussi : DAYTON RUBBER CO. et DAYTON COMPANY)
— Cette firme remplace la firme qui porte les No. 153 et 846
1515 — DELAVAL TURBINE INC.
1516 — DESMOND'S
1517 — DESMOND'S INCORPORATED et ses 18 magasins de vente
1518 — DESOTO CHEMICAL BOOTING INC.
1519 — DYNOFLEX
1520 — DAN HOTEL CORP. N.Y. (120, East 50th N.Y.)
— Cette firme remplace la firme qui porte le No. 1396
1521 — EASTERN MAGNESIA TALC COMP. (Johnson Operation Johnson, Vermont 05656)
1522 — E.J. CHUBBUCK CO. INC.
1523 — ELCO CORPORATION (Maryland RD Near Computer Ave., Willow Grove, P.A. 19090) actuellement à l'adresse suivant : Benjamin Fox, Pavilion Foxcroft Squre Jenkintown P.A. 19046
— Cette firme remplace la firme qui porte le No. 868
1524 — ELECTROMAGNETIC TECHNOLOGY CORP. (ENTECH) (Industrial Park, Montgomeryville Pennsylvania aussi sous le nom ENTECH
1525 — ELOX DIVISION (1630 Stephenson Highway-Troy, Michigan 48084)
1526 — EMPIRE GRAPHITE DIVISION
1527 — EMPIRE PENCIL DIVISION
1528 — ENGELHARD INDUSTRIES A/S
1529 — ENGELHARD INDUSTRIES INTERNATIONAL LTD.
1530 — ENGELHARD INDUSTRIES LTD.
1531 — ENGELHARD INDUSTRIES PTY. LTD.
1532 — ENGELHARD INDUSTRIES S.A.
1533 — ENGELHARD MINERALS & CHEMICALS CORP. (113 Astor Street, New York, New Jersey 07114)
1534 — FAIRBANKS MORSE CANADA LTD. (233, Brodway, New York)
1535 — FAIRBANKS MORSE POWER SYSTEM DIVISION (701-Lawton Avenue, Beloit Wisconsin 53511 et ses succursales à (1901 State Highway No. 208, Fairlaw, New York)
— Cette firme remplace la firme qui porte le No. 902
1536 — FARBAND LABOR ZIONIST ORDER
1537 — FIDELITY SERVICE CORP.

1538 — FIRST ISRAEL BANK & TRUST CO. OF NEW YORK et ses succ. à :
— 1412 Brodway N.Y.
— 570, 5th Ave. N.Y.
1539 — FISCHER & PORTER COMP. (Warminster, Pennsylvania 18974)
1540 — FISCHER & PORTER DE PUERTO RICO INC. (San Juan Puerto Rico)
1541 — FISCHER MILLS (35, Electric Ave. Secaucus, New Jersey)
1542 — FISCHER MILLS (Marque Commerciale des divers produits des deux firmes américaines : SANFORIZED CO. et GLUETT, PEABODY & CO. INC.
1543 — FLEET MAINTENANCE INC. (ILL.)
1544 — FORD CUSTOM
1545 — FORD CUSTOM 500
1546 — FORD INTERNATIONAL CAPITAL CORP.
1547 — FORD LIFE INSURANCE CO.
1548 — FORD LTD.
1549 — FORD PRECISION PRODUCTS INC. à Porto Rico
1550 — FOUNDATIONS REALTY ASSOCIATION INC. (201-3 Baumer Str., Johnstown Pennsylvania
1551 — FOXRIDGE
1552 — FUJI PHOTO FILMS U.S.A. INC. (350 Fifth Avenue, New York)
1553 — FUND OF AMERICA INC. (avant : FUND AMERICAN) 90, Park Avenue, N.Y. 10017
— Cette firme remplace la firme qui porte le No. 918
1554 — GITZ BROS. & CO. INC. (87-89 Pat Pong road, Bangkok, Thailand)
1555 — G.I. JOE
1556 — G.I. JOE DIVISION
1557 — GEORGE M. BLACK
1558 — GEORGETOWN INDUSTRIES INC. (Georgetown Kentucky)
1559 — GLENSDER CORPORATION (417, Fifth Avenue New York, N.Y.)
1560 — GLENOIT MILLS INC. N.Y.
1561 — GLENTEX
1562 — GOLD TOE
1563 — GOULD INC. (First National Bank, Building St. Paul, Minnesota, 55101)
1564 — GOULD IONIC INC.
1565 — GRANADO
1566 — GREAT AMERICAN KNITTING MILIS INC. (Eally, Pennsylvania)
1567 — E.L. GRUBER UNDERWEAR CO. (Arizona, Glendale)
1568 — HARRY COFFEE
1569 — HASBRO INDUSTRIES INC. (1027, New Port Avenue, Phode Island, 02861)
1570 — HASBRO TOYS DIVISION
1571 — HASSENFELD BROTHERS CO. INC. (Central Falls, Rhode Island)
1572 — HELENA RUBINSTEIN P.R. INC. à Porto Rico
1573 — HENRY C. LYTTON AND COMPANY et ses 10 magasins de vente qui portent le nom : «LYTTON'S»
1574 — HENRY ROSE STORES INC.
1575 — HELENE CURTIS INDUSTRIES
1576 — HEROANT ENGINEERING DIVISION (7123 Canoga Av. Canoga Park, Calif 91304)
1577 — HERBERT INC. (Park Ridge, Illinois)
1578 — HOLLEY CARBURETOR COMPANY (11955 East nine mile road, Warren, Michigan 48089
— Cette firme remplace la firme qui porte le No. 261
1579 — HOMAN SERVICE INC.
1580 — HOMART DEVELOPMENT CO.
1581 — THE HOME INSURANCE CO. (201 North Charles Street Baltimore, Maryland et un autre adresse à : 1911 North Fort Meyer, Arlington, Virginia 22201
— Cette firme remplace la firme qui porte le No. 252
1582 — HOUDRY PROCESS CHEMICAL CO. (1528, Walnut Street, Philadelphia, P.A.)
1583 — HOUSE HOLD PRODUCTS DIVISION (Bedford Park, Chicago, Illinois)
1584 — I.T.I. CORP. (connu aussi : ISRAEL AMERICAN OIL CORP. (210 Sylvan, Avenue Engelwood Cliffs N.J.
1585 — INDUSTRIAL CONTAINER CORP.
1586 — INDUSTRIES ENGELHARD S.P.A.
1587 — INLAND WALL PAPER
1588 — INTERFACE CORP. (East Orange, New Jersey) avant International Pipe Céramics)
1589 — INTRA PRODUCTS INC. (P.O.B. 14148, North Bridge Station, Dayton, Ohio)
1590 — ISABEL PRODUCTS INC. (Santa Isabel, Puerto Rico)
1591 — ISRAEL ASSORTED COMMIDITIES (511, West 20th St. New York, 10011)
— Cette firme remplace la firme qui porte le No. 1009
1592 — ISRAEL DEVELOPMENT CORP. (30 East, 42nd, St. New York N.Y. 10017)
1593 — J. SCHOENEMAN INCORPORATED (Owings Mills, Maryland et ses bureaux dans les pays suivants : 1290 Av. of the Americas, New York, Wilmington, Delaware, Chambersburg, Lansdale, Norristown, Sonderton, Pennsylvania Winchester, Virginia
1594 — J. SCHOENEMAN (Marque Commerciale des habillements pour hommes et dames produits par les deux firmes : SANFORIZED CO. et GLUETTE, PEABODY & CO. INC. et ses autres succursales)
1595 — JAVELIN
1596 — JAYMAN PRECISION PRODUCTS INC.
1597 — JONES MORGAN (Marque Commerciale des habillements pour hommes et dames, des mouchoirs, des Cravattes produits par les deux firmes : SANFORIZED CO. et GLUETTE PEABODY & CO. INC.

1598 — JONES MORGAN — BESSE RICHEY et ses sept maisons commerciales qui portent le même nom dans les villes suivantes : Hamden — Bridgeport — New Haven — Waterbury — Old Saybrook — Milford

1599 — KEM MANUFACTURING CORP. (78, South Lindon Road, South San Francisco, Calif.)

1600 — KEM MANUFACTURING CORP. CERFACT LABORATORIES (2075, Tucker Industrial road, Tucker, Georgia 30084)

1601 — KEM INTERNATIONAL CORP.

1602 — KEM SUPPLY CORP. (San Juan, Puerto Rico)

1603 — KING DIVISION
— L'importation de ses disques imprimés chez la firme R.C.A. ou chez ses succursales est interdite

1604 — LABOR ZIONIST ORGANIZATION

1605 — LADY ARROW DIVISION (1407 Broadway, New York) et ses usines et bureaux à Los Angeles, Chicago, Atlanta, New York

1606 — L. FEIBLEMAN & CO.

1607 — L.T.D. BROUGHAM

1608 — LADY CARLYLE SHIRT COMPANY INC. (107 Broadway New York N.Y.)

1609 — LADY MANHATTAN WOMEN SHIRTS

1610 — LARSAN MFG CO.

1611 — LEROUX

1612 — LEYLAND MOTORS SALES CORP. (120, Commerce Road, Carlstadt, N.J.)

1613 — LIFETIME FOAM PRODUCTS INC.

1614 — LILY OF FRANCE INC. (New Haven Connecticut)

1615 — LINCOLN - MERCURY DIVISION

1616 — LINGERIE (Marque de vêtements et sous vêtements et chemises de nuits pour dames produits par les firmes américaines : VAL MODE LINGERIE — VAL MODE SLEEPWEAR INC.

1617 — LION (Marque commerciale de divers vêtements hommes et dames produits par les firmes américaines : SANFORIZED — GLUETTE, PEABODY & CO. INC.

1618 — LION CLOTHING CO. et ses magasins qui portent le nom LION à la Jolla San Diego

1619 — LITWIN CORP. (520 E. Williams, Wichita Kansas, U.S.A.)
— Cette firme remplace la firme qui porte le No. 1098

1620 — LIAVE GOLD

1621 — LIAVE WHITE

1622 — LOCK JOINT CONCRETE PIPE CO. INC.

1623 — LORD AND TAYLOR INC. et ses neufs magasins dans les villes américaines :
New York — Manhasset — Westchester — Milburn — West Hartford — Bala — Cynwyd — Garden City Washington, Chery Chase, Jenkintown
— Cette firme remplace la firme qui porte le No. 387

1624 — LYTTON'S (Marque commerciale des vêtements homme et dame produits par les firmes américaines : SANFORIZED CO. — GLUETTE, PEABODY & CO. INC.

1625 — LYTTON'S (Nom commercial de dix magasins appartenant à : HENRY C. LYTTON & CO. dans les villes suivantes : Ever green — Park aurora — Calument city — Chicago, Skokie - Park forest Oak park — Niles evanston

1626 — MABANAFT, INC. — NEW YORK

1627 — MALLARD PEN & PENCIL CO. INC. (Georgtown, Kentucky)

1628 — MANHATTAN MENS, SHIRTS. (Ses adresses sont les suivantes :
1 — Bureau exécutif : 1271 avenue of the américas, New York N.Y.
2 — Bureau administratif : 207 River Street, Paterson New Jersey
3 — Bureaux de vente des habits pour hommes :
— 1271 avenue of the américas, New York.
— Merchandise mart atlanta, Georgia.
— Merchandise mart Chicago, Illinois.
— Merchandise mart Dallas, Texas.
— California mart, Los Angeles, California.
— 821 Market Street, San Francisco, California.
4 — Bureaux de vente des habits pour dames :
— 1407 Broadway, New York, N.Y.
— Merchandise mart Chicago, Illinois.
— California mart, Los Angeles, California.
— 821 Market Street, San Francisco, California.
5 — Adresses de ses usines :
— Americus, Georgia.
— Ashburn, Georgia.
— Charleston heights, South Carolina.
— Gunyama, Puerto Rico.
— Jesup, Georgia.
— Lexington.
— Kingston, New York.
— Middletown, New York.
— Salisbury, Maryland.
— Scranton, Pennsylvania.
6 — Centres de distribution :
— Paterson, New York.
— South San Francisco, California.
— Winnsboro, South Carolina.
— Cette firme remplace la firme qui porte le No. 1100

1629 — MANKRAFT CORP. et tous ses succursales et : INDUSTRIAL CONTAINER CORP.
— Cette firme remplace la firme qui porte le No. 1111

1630 — MARQUIS

1631 — MARQUIS BROUGHAM

1632 — MAVERICK

1633 — MAVERICK GRABBER
1634 — METROPOLITAN (Marque commercial des habits pour hommes et dames produits par les firmes américaines : SANFORIZED CO. GLUETTE, PEABODY & CO. INC.
1635 — METROPOLITAN CO. et ses succursales à : Clayton, Kettering, Dayton
1636 — METROPOLITAN SAVINGS & LOAN ASSOCIATION
1637 — MIAMI OXYGENE SERVICES INC. (7610 N.W. 23 R.D. Avenue Miami, Florida et un autre adresse : 7900 - 18th Avenue N. Largo, Florida)
1638 — MICHIGAN TITLE CO.
1639 — MINERALS & CHEMICALS DIVISION (connue avant : MINERALS & CHEMICALS PHILIP CORP.)
— Cette firme remplace la firme qui porte le No. 1125
1640 — MINKUS STAMP CO. INC.
1641 — MINKUS STAMP GALLERIES INC. TEXAS
1642 — MINUTE MADE
1643 — MIRISCH PRODUCTION COMPANY (1644 N. Formosa St. Los Angelos Clif)
1644 — MONSANTO COMPANY (connue avant : MONSANTO CHEMICAL COMPANY) (800 North Lindberg Boulevard, St. Louis 66, MO)
— Cette firme remplace la firme qui porte le No. 629
1645 — MONTEGO
1646 — MONTEGO MX.
1647 — MONTEGO MX. BROUGHAM
1648 — MONTEREY
1649 — MONTEREY CUSTOM
1650 — MOTORCRAFT
1651 — MOTOROLA AUTOMOTIVE PRODUCTS INC. (9401 W. Grand Avenue, Franklin Park, Illinois, U.S.A.)
1652 — MOTORLA COMMUNICATIONS INTERNATIONAL INC. (Schumburg, Illinois)
1653 — MUSTANG BOSS 351
1654 — MUSTANG GRANDE
1655 — MUSTANG MACH 1
1656 — NASSAU VENTURES INC.
1657 — NATIONAL COUNCIL FOR JEWISH EDUCATION
1658 — NATIONAL EMBLEM INC. CO.
1659 — NATIONAL ORT LEAGUE
1660 — NATIONAL UNION ELECTRICAL CORP. (Box 1157 Stamford Connecticut. U.S.A.)
1661 — NATION WIDE INSTALLATION INC.
1662 — NATION WIDE SHOE CO.
1663 — NEWARK OHIO CO.
1664 — NICHIBO CO. LTD. (200 Park Avenue, New York N.Y. 10017)
— Boycottage partielle concernant les tissus qui portent la marque : «SANFORIZED»
1665 — OAK RIDGE TEXTILES INCORPORATED (North Carolina, Greensboro)
1666 — O.E.I. COMPUTER SYSTEMS INC.
1667 — O.R.T. (Organisation de Reconstruction et du Travail)
1668 — OAK ENGINEERING CO. (Glovcester City, New Jersey)
— Cette firme remplace la firme qui porte le No. 1170
1669 — OCCIDENTAL LIFE INSURANCE CO. OF CALIFORNIA
1670 — OLYMPIC GLOVE CO. INC. (95 Madison Ave. New York, 16 N.Y.)
1671 — OLYMPIC MARATHON & SPARTAN INSURANCE COMPANIES
1672 — ORGON TITLE INSURANCE CO.
1673 — PACIFIC FIEDELITY LIFE INSURANCE COMP.
1674 — PACIFIC FINANCE CORP.
1675 — PACIFIC FINANCE LOANS
1676 — PACIFIC INSTALLERS INC.
1677 — PALO VIEJO GOLD
1678 — PALO VIEJO WHITE
1679 — PERVEFLINE
— Cette firme remplace la firme qui porte le No. 1195
1680 — PHILCO - FORD (3875 Fabian Way-Palo Alto, California 94303)
1681 — PHILCO - FORD CORP.
1682 — PHILIPP ROTHENBERG (250 - Fifth Av. (Room 315) New York 10001)
1683 — PHILIPP BROS INDIA LTD. (New York)
1684 — PINTO
1685 — PIONEER WOMEN
1686 — PONCE FASHIONS INC. (Ponce, Puerto R'co)
1687 — PRATT & WHITNEY CUTTING TOOL & GAGE DIVISION (Charter Oak, Boulevard-West, Hartford Connecticut 06101)
1688 — PRECIOUS METALS TRADING CO. INC.
1689 — PREMIER INSURANCE COMP.
1690 — PUERTO RICO DISTILLING CO. à Arecibo
1691 — PUERTO RICO DISTILLING INC. à Arecido
1692 — Q-LINE INSTRUMENT CORP.
1693 — QUILITON DIVISION (Minneapolis, Minnesota)
— L'importation de ses disques imprimés par la firme R.C A. est interdite
1694 — R.C.A. COSTOM RECORDS (113, Avenue of the Americas, New York N.Y.)
1695 — R.C.A. DE PORTO RICO INC. (Dieners Towers, Hotel Room 1003, 1200 Ashford Ave. Santunce, Porto Rico)
1696 — R.C.A. INTERNATIONAL DIVISION (Central & Terminal Avenue Clark, New Jersey 07066)
— Cette firme remplace la firme qui porte le No. 1234
1697 — R.C.A. INTERNATIONAL SERVICE
1698 — R.M. HOLLINGSHEAD CORP.
1699 — RABEL
1700 — RADALAB
1701 — RAMBLER

1702 — RAULAND CORP. OF CHICAGO
— Cette firme remplace la firme qui porte le No. 514
1703 — RELIGIOUS ZIONISTES OF AMERICA
1704 — THE REPUBLIC STEEL CORP. (225, W. prospect Ave. Cleveland 15 Ohio) et ses usines situées dans les villes suivantes :
Cleveland Ohio — Detroit Michigan — Brooklin, New York — Elyria Ohio — South Chicago, Illinois — Warren Ohio — Niles Ohio — Newton Falls Ohio — Massillon Ohio — Canton Ohio — Youngstown Ohio — Gadsden Alabama — Birmingham Alabama — Buffalo, New York — Troy New York — Beaver Falls, Pennsylvania — Gary Indania — East Hartford Connecticut — Los Angeles — California — Harrisburg Penn — Charlotte North Carolina — Nitro West Virginia.
1705 — REVLON INC. (666, 5th, New York 19 N.Y. U.S.A.)
1706 — REVLON INTERNATIONAL CORP. N.Y.
1707 — RIVERSIDE INSURANCE COMPANY
1708 — ROGER PEET
1709 — ROGER PEET COMPANY et ses bureaux à 842, Broadway — New York et sa marque commerciale qui porte son nom
1710 — ROGOSIN INDUSTRIES LTD. NEW YORK
— Cette firme remplace la firme qui porte le No. 530
1711 — ROMPER ROOM CHILD DEVELOPMENT CENTER INC.
1712 — ROMPER ROOM ENTERPRISES INC.
1713 — RONRICO CORP. à Arecibo
1714 — RONRICO GOLD
1715 — RONRICO WHITE
1716 — RUDIN NEEDLE CRAFT (45 West 34th Street, New York 1, N.Y.
— Cette firme remplace la firme qui porte le No. 534
1717 — RUSTRAK DIVISION
1718 — S.O. ETTES
1719 — S O S.
1720 — SABRINA FRAGRANCES LTD. (28-10, 41 St. Ave. Long Island City, New York 11101 et son adresse postale 520 Fifth Ave. New York N.Y.
1721 — SALLY SCHRANK (Marque de sous-vêtements et de Chemises de nuit pour dames se rapportant à la firme américaine M.C. SCHRANK CO. LTD.
1722 — SANFORIZED PLUS
1723 — SANFORIZED PLUS 2
1724 — SATINA
1725 — SCHRANK
1726 — SCHEER TUMICO INC. (St. James Minnesota)
1727 — SCIENTIFIC DATA SYSTEMS (S.D.S.) (1649, Seventh St. Santa Monica, California
1728 — SEA WEED
1729 — SEABOARD MANUF. CO.
1730 — SEARS FINANCE CORP. (DEL)
1731 — SEARS INTERNATIONAL CORP.
1732 — SEARS ROEBUCK & CO. (925 Shoman Ave. Chicago Ill. et son succursale à Philadelfia 4940 Roosevelt Blvd)
1733 — SEARS ROEBUCK OVERSEAS INC. (DEL)
1734 — SEARS ROEBUCK DE PUERTO RICA INC. (DEL)
1735 — SEARS ROEBUCK S.A. (DEL) CENTRAL AMERICAN
1736 — SEEBURG CORPORATION OF DELAWARE
— L'importation de ses disques imprimés par la firme R.C.A. ou par ses succ. est interdite
1737 — SEEBURG MUSIC LIBRARY INC.
— L'importation de ses disques imprimés par la firme R.C.A. ou par ses succ. est interdite
1738 — SEEBURG PRODUCTS DIVISION
— L'importation de ses disques imprimés par la firme R.C.A. ou par ses succ. est interdite
1739 — SEMINARY SOUTH INC.
1740 — SEROSE HOLDING LTD.
— L'importation de ses disques imprimés par la firme R.C.A. ou par ses succ. est interdite
1741 — SHERMAN CONCRETE PIPE
1742 — SHOLEM ALECICHEM FOLK INSTITUTE
1743 — SIGMA PRODUCTION INC. (711-Fifth Ave. New York N.Y. connue sous le nom OTTO PREMINGER FILM l'adresse de son bureau principal est 5451 — Marathon Street, Hollywood, California 90038
1744 — SILVER KLEEN
1745 — SONNEBORN ASSOCIATED PETROLIUM CORP.
1746 — SONOTONE CORP.
1747 — SOUTHERN TEXTILES INC.
1748 — SPRING CITY KNITTING CO. (Spring City Pennsylvania)
1749 — M.C. SCHRANK COMPANY INC. (417 Fifth Avenue New York. N.Y.)
1750 — STATE TAX SERVICE
1751 — STERLING DIE OPERATION (Cleveland — Ohio) connue avant : STERLING DIE CO.
— Cette firme remplace les firmes qui portent les No. 577 et 1307
1752 — SUPUR - STAT (Marque commerciale des produits de la firme américaine APECO CORP.
1753 — SUPER - STAT ROLL - O - MATIC (Marque commerciale des produits de la firme américaine : APECO CORP.
1754 — SUPER - STAT II (Marque commerciale des produits de la firme américaine : APECO CORP.
1755 — SUPER - STATE - ULTRA (Marque commerciale des produits de la firme américaine : APECO CORP.
1756 — TERMINAL FREIGHT HANDLING CO. (DEL)
1757 — TORINO (Marque de voitures appartenante à FORD)

1758 — THE SANFORIZED COMPANY (530 Fifth Avenue, New York City) et ses succursales
1759 — TORINO BROUGHAM (Marque de voitures appartenante à FORD)
1760 — TORINO COBRA (Marque de voitures appartenante à FORD)
1761 — TORINO 500 (Marque de voitures appartenante à FORD)
1762 — TORINO GT. (Marque de voitures appartenante à FORD)
1763 — TORK TIME CONTROLS INC.
1764 — TOWN AND COUNTRY ARUNDAL INC.
1765 — TRADCO MANUFACTURING & SALES COMPANY
1766 — TRANS AMERICA CAR LEASING
1767 — TRANS AMERICA CORP. (701, Montgomery Street, San Francisco, California 9411 U.S.A.
1768 — TRANS AMERICA CREDIT CORP.
1769 — TRANS AMERICA DEVELOPMENT COMPANY
1770 — TRANS AMERICA FINANCIAL CORP.
1771 — TRANS AMERICA INSURANCE COMPANY
1772 — TRANS AMERICA LEASING CORP.
1773 — TRANS AMERICA LIFE INSURANCE & ANNUITY COMPANY
1774 — TRANS AMERICA RESEARCH CORP.
1775 — TRANS AMERICA TITLE INSURANCE CO.
1776 — TRES ESTRELLAS
1777 — TUFFY
1778 — U.S. WALLBOARD MACHINERY CO. (90 Broad St. New York)
1779 — UNION OF AMERICAN HEBREW CONGREGATIONS COMMITTEE ON JEWISH EDUCATION
1780 — UNION CAMP. CORP. (1600 Valley road, Wayne, New Jersey 07470)
1781 — UNITED ARTISTS CORP. (729, Seventh Avenue New York)
1782 — UNITED ARTISTS MUSIC CO. INC.
1783 — UNITED ARTISTS RECORDS
1784 — UNITED ARTISTS TELEVISION INC.
1785 — UNITED MANUFACTURING CORP
— L'importation de disques imprimés par la firme R.C.A. ou par ses succ. est interdite
1786 — UNITED SYSTEMS CORP. (918 Woodley road, Dayton, Ohio 45403)
1787 — UNIVERSAL BUNDLE CORP.
1788 — UNITED SYNAGOGUE OF AMERICA: (Commission of Jewish Education)
1789 — VAL MODE LINGERIE INC. (102, Madison Avenue, New York N.Y.)
1790 — VAL MODE SLEEPWEAR INC. (102, Madison Avenue, New York N.Y.)
1791 — VAN RAALTE CO. INC. (417 Fifth Av. New York N.Y.)
1792 — VERNITRON CORP. (175 community Drive Lake Success, New York N.Y. 11021 U.S.A.)
1793 — WARMINSTER FIBERGLASS CO. (Southampton Pennsylvania U.S.A.)
1794 — WARWICK ELECTRONICS INC.
1795 — WARWICK MFG. CO.
1796 — W. B. SAUNDERS CO.
1797 — WEG MATIC CORP. (600, Madison Ave. New York, 21)
— Cette firme remplace la firme qui porte le No. 1375
1798 — WHIRLPOOL CORP. et ses six usines à : Clyde Ohio — Marion Ohio — Evansville Indiana — Laport, Indiana — St. Joseph Michigan, St. Paul Minnesota.
— Cette firme remplace la firme qui porte le No. 1379
1799 — WILLIAMS ELECTRONICS INC.
— L'importation des disques imprimés par la firme R.C.A. ou par ses succ. est interdite
1800 — WITCO INTERNATIONAL CORP.
1801 — WOLVERINE INSURANCE CO.
1802 — WOMEN'S AMERICAN
1803 — WOODLAND DISTRIBUTING CO. (Central Falls, Rhode Island)
1804 — WORKMEN'S CIRCLE
1805 — YARDNEY CHEMICAL INC.
1806 — YARDNEY ELECTRIC CORP. (40-52 Léonard Street, New York N.Y. 10013)
1807 — YARDNEY ENTREPRISES
1808 — YARDNEY INTERNATIONAL CORP.
1809 — YORKTOWN INDUSTRIES INC. (330 Factory Road, Addison, Illinois 60101)
1810 — YOUNG — QUINLAN
1811 — YOUNG — QUINLAN (nom commercial des quatre magasins à minéapolis — St. Paul — St. Louis Park — St. Anthony Village)
1812 — YOUNG — QUINLAN ROTHSCHILD (Minneapolis, St. Paul, St. Louis Park, St. Anthony Village) (Minnesota)
1813 — YESHIVA UNIVERSITY : Community Services Division
1814 — ZENITH RADIO CORP. OF NEW YORK
1815 — ZIONIST ORGANIZATION OF AMERICA
1816 — 754 FIFTH AVENUE CORPORATION

FIRMES LIBEREES

26 — American Israel Paper Mills
61 — Bayaid Land Corp.
91 — Burlington Industrie Inc.
120 — Compania Occidental Mexicana S.A.
121 — Glacier Sand and Gravel Co.
128 — Company Occidental Mexicana S.A.
163 — D.W. Onan and Sons Inc.
214 — Foothill Electric Corp. Electrical Contracting
222 — General Paper Company
224 — General Tires and Rubber Co.
227 — Gilpin Construction Co. Ltd.
242 — Gypsum Carrier Inc.
251 — Henninger Brewery International Corp.
255 — Henri J. Kaiser
333 — Kaiser Engineers International

326 et 327 -- Kaiser Aircraft et Electronics Division
325 — Kaiser Frazer
328 -- Kaiser Aluminium and Chemical Corp.
329 — Kaiser Bauxite
330 — Kaiser Broadcasting Division
331 — Kaiser Center Inc.
332 — Kaiser Community Homes
333 — Kaiser Electronics Inc.
334 — Kaiser Engineers Division
335 — Kaiser Engineers International Division
336 — Kaiser Foundation Hospitals
337 — Kaiser Foundation Health Plan Inc.
338 — Kaiser Foundation School Nursing
339 — Kaiser Foundation Medical Care Program
340 — Kaiser Gypsum Co. Inc.
341 — Kaiser Hawaii - Kai Development Co.
343 — Kaiser Metal Products Corp.
344 — Kaiser Sand Gravel and Division
345 — Kaiser Services
346 — Kaiser Steel Corp.
371 — Loan Corp. LTD.
423 — Mitsubishi Monsanto Chemical Co.
423/b — Mitsubishi Chemical Inc.
431 — Monsanto Iberica S.A.
436 — Mortgage et Savihs Bank LTD.
446 -- National Steel and Shipbuilding Co.
449 — Nation Steel et Shipbuilding Co.
471 — Pacific Gypsum Co.
480 — Permanente Cement Co.
482 — Permanente Services Inc.
483 — Permanente Services of Hawaii Inc.
427 — Pennsylvania Division
499 — Pioneer Women's Commercial Bonds of Israel Government
506/b — Princeton Knitting Mills Inc.
556 — La Société Monsanto Boussis S.A.
587 — Solcoor Inc. (250, West 57th St. New York 19 N.Y.) (voir No. 1299)
604 — Southern Permanente Services Inc.
671 -- Standard Magnesium and Chemical
607 — Turover Isador
661 — Unela
612 — Union Bag. Camp. Paper Corp.
614 — United Near East Laboratories
685 -- American Continental Co. of Japon
700 — American Trust Co.
755 — Bonwitteller Co.
776 — Byers AM. Inc.
705 -- Chicago
827 — Consejo de la Education Israelita
828 -- Consejo Ejecutivo de la Congreso Judio...
839 — Créatora Canada LTD. (Firme canadienne mentionnée sous le No. 79)
855 -- Elco Connectors
869 — Electric Motor of Rochester N.Y.
883 — Eltra Corporation
887 -- Embart Corp.
910 — Fédéracion Sionista Universitaria
911 -- Fédéracion Sionista Revisionista
950 — Gallis Manufacturing Company of Fairmont
952 -- Géoding, Jennu Incor.
955 — General Tire International Co.
964 — Glacier Sand and Gravel Co.
969 — Gretna
973 — Hand M. Wilson Opération Cadany
975 — Hammond
981 — Hawaii-Kai Co. Services
1015 — Ingénieria Y. Constructiones Kaiser S.A.
1020 — International Packers LTD.
1026 — Israel Alabama Wire Corp.
1029 — Israel Emergency Fund.
1037 — Janrico Inc.
1051 — Kaiser Aerospace and Electronics Corp.
1052 — Kaiser Aluminium
1053 — Kaiser Aluminium and Chemical Sales Inc.
1054 — Kaiser Aluminium
1055 — Kaiser Aluminium
1056 — Kaiser Cement
1057 — Kaiser Chemical International
1058 — Kaiser Co. Ingineering and Construction
1059 — Kaiser Co. Ingineering and Construction
1060 — Kaiser Cox Coap.
1061 — Kaiser Electronics Inc.
1062 — Kaiser
1063 — Kaiser
1064 — Kaiser
1065 — Kaiser
1066 — Kaiser
1067 -- Kaiser
1068 — Kaiser
1069 — Kaiser
1070 — Kaiser
1071 — Kaiser
1102 — Los Angelles Lynwood Oil Dale Watson
1130 — Missouri Rogers Corp.
1137 — Mordecai Land and Invcs.
1139 — Movimento Sio Nistadetrabajo
1140 — Movimento Sionista partidari
1188 — Paterson Perthamboy
1193 — Permanente Steam Ship Corp.
1194 — Permanente Trucking Co.
1197 — Petrolia
1214 — Prospect Corp.
1275 — Rex-International
1354 — United Jewish Appeal for Film Industry
1378 — Well Co. Shoe
1384 — Association Jehova
1390 — The York Fund Incorp.
1398 — R.K.O. General Inc.
1399 — Transmission Products Inc.

U.S.A.

NAVIRES BOYCOTTES

29 — SAMCSET

NAVIRES LIBERES

16 — Jesse Lykes
29 — Export Aide

VENEZUELA

FIRMES BOYCOTTEES

41 — B'NAI B'RITH

42 — FORD MOTOR CREDIT COMPANY INTERNATIONAL

43 — NECHI DE VENEZUELA (EDF Caoma, Mezzanina Av. Urdaneta, Caracas)

44 — SEARS ROEBUCK DE VENEZUELA S.A. (Venezuela)

45 — TELEVEN S.A. (Av. Los Aricos Larrea No. 125-97, Maracaibo, Venezuela

46 — ZENITH (à Maraquibo)

FIRMES LIBEREES

1 — BANCO HOLLANDES UNIDO (Caracasse, Marakibo)

30 — C.A. GENERAL DE FINANAS E. INDUSTRIAS

FIRMES ET ETABLISSEMENTS ETRANGERS PRIVES D'AGENCE DE SOCIETE ARABE

1 — CARIBBEAN EXPRESS C.A. (P.O.B. 2540, Veroes A. Jesuitas Caracas Vénézuéla)
— Cette firme remplace la firme qui porte le No. 18

VIETNAM

FIRMES BOYCOTTEES

1 — FUJI XEROX FAR EAST LTD. SAIGON (194 Congly Street, Saigon, Vietnam)

YOUGOSLAVIE

FIRMES BOYCOTTEES

12 — I.M.V. INDUATRIJA MOTORNIH VOZIL (Novo Mesto, Slovenia)
— L'importation des voitures Micropas modèle I.M.V. 1600) avec moteur Austin - Morris est interdite

13 — I.M.V. 1600 (voiture Micropas)

FIRMES LIBEREES

1 — BAGAT FACTORY OF SWING MACHINE

NAVIRES BOYCOTTES

8 — TRAVNIK

ADDITIF NO. 2, DECISION DU CONSEIL DES MINISTRES PRISE EN SA SEANCE DU 12-6-1974 [P-U NO. 29/31]

156 — KEREN HAYESSOD EN ISRAEL — FONDS UNIFIE A BRUXELLES

(Cette firme remplace la firme No. 122)

وفرعها :

157 — KEREN HAYESOD HAMOGBIT HAMENKE DETLE ISRAEL

الكائن في مدينة آنقرة .

(Cette firme remplace la firme No 123)

وكافة فروعها والمنظمات والهيئات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

على ان يكون الحظر نهائيا .

وعلى ان تدرج اسماء اعضاء مجالس ادارتها والساهمين الرئيسيين فيها والمشرفين عليها على قائمة الاشخاص الممنوعين من دخول لبنان .

بعد ان ثبت انها فروع للمنظمة الصهيونية: Keren Hayessod

المحظور التعامل معها ومع كافة فروعها نهائيا .

FIRMES LIBEREES

100 — SAGA

وفرعها الشركة السويسرية : ـ

80 — I.S.I.F. (International Securities Investment Fund)

112 — CAMY WATCH S.A.

125 — ENZO WATCH S.A.

152 — STOUN FRERES BOREA WATCH CO.

التي اصبح اسمها :

121 — CRONEL WATCH S.A.

TANZANIE

FIRMES BOYCOTTEES

10 — METRO FURNITURES LTD.

P.O.Box 850, Dar Es Salam

وتعمل في صناعة الاثاث الخشبي وبيعه .

وكافة فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

بعد ان تبين انها تستورد المواد الاولية اللازمة لصناعة منتجاتها من اسرائيل وتدخلها في منتجاتها الخاصة ، وبعد ان تنصلت من الاستجابة لانذار القاطعة .

(Cette firme remplace la firme No. 8)

TURQUIE

FIRMES BOYCOTTEES

232 — BURSA VITAMINLI YEM SANAYII A.S.

233 — BANDIRMA YEM SANAYII LTD. SIRKETI BANDIRMA (remplace le No. 207)

234 — BOLUV ITAMINLI YEM SANAYII A.S., BOLU (remplace le No. 209)

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

على ان يكون الحظر نهائيا .

وعلى ان تدرج اسماء مجالس ادارتها والساهمين الرئيسيين فيها والمشرفين عليها ممن ثبت عليهم تهمة الميول الصهيونية على قائمة الاشخاص الممنوعين من دخول لبنان .

بعد ان ثبت انها شركات شقيقة للشركة التركية : ـ
Vitaminli Yem Sanayii A.S.

المحظور التعامل معها ومع كافة فروعها نهائيا .

والتي غيرت اسمها الى : ـ
Topkapi Vitaminli Yem Sanayii A.S.

FIRMES LIBEREES

52 — G. AND E.A. BAKER LTD.

G. VE. A. BAKER LIMITED واسمها الصحيح :

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

TAIWAN

NAVIRES BOYCOTTES

1 — TAI YUAN

بعد ان ثبت انها تعمل على الخط الملاحي الاسرائيلي :
Zim Line

U.S.A.

FIRMES BOYCOTTEES

1617 — APECO CORPORATION

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت . وذلك بعد ان ثبت ان الشركة الاميركية :ـ
American Photocopy Equipment Company

المحظور التعامل معها ومع كافة فروعها قد غيرت اسمها بحيث اصبح :ـ
Apeco Corporation

(Cette firme remplace la firme No 1433)

1818 — CHICAGO SPECIALTY MANUFACTURING

7500 Linder, Skokie, Illinois. U.S.A.

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

بعد ان ثبت ان المدعو : Lorryn Solomon المنوع من دخول البلاد العربية لثبوت تهمة الميول الصهيونية عليه قد انتخب عضوا في مجلس الادارة القومي بالغرفة الاميركية الاسرائيلية للتجارة والصناعة لتمثيل الشركة المذكورة آنفه .

وبعد ان تمنعت عن الاستجابة لانذار المقاطعة .

(Cette firme remplace la firme No. 797)

1819 — COLT INDUSTRIES INTERNATIONAL INC.

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

وذلك بعد ان ثبت انها فرع للشركة الاميركية :
Colt Industries Inc.

المحظور التعامل معها ومع كافة فروعها .

(Cette firme remplace la firme No. 1494)

1820 — CULTER HAMMER

وعنوانها :

4201 N.27th Street Milwaukee, Wis 53216, U.S.A.

وكافة فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

بعد ان ثبت انها قامت بتزويد اسرائيل بأجهزة رادار تفيد الجهود الحربي الاسرائيلي . وبعد ان تمنعت عن الاستجابة لانذار المقاطعة .

(Cette firme remplace la firme No. 1510)

1821 — ISRAEL DEVELOPMENT CORP.

30 East 42nd St. New York,N.Y. 10017

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

على ان يكون الحظر نهائيا .

وعلى ان تدرج اسماء اعضاء مجلس ادارتها والمساهمين الرئيسيين فيها والمشرفين عليها ممن ثبت عليهم تهمة الميول الصهيونية على قائمة الاشخاص الممنوعين من دخول لبنان .

وذلك بعد ان ثبت انها تحصر استثماراتها في المؤسسات الاسرائيلية وانها انشئت اساسا لغرض تدعيم الاقتصاد الاسرائيلي، فضلا عن واقع تسميتها .

(Cette firme remplace la firme No. 1592)

1822 — KEM MANUFACTURING CORPORATION. CERFACT LABORATORIES

2075 Tucker Industrial Road, Tucker, Georgia 30084, U.S.A.

(Cette firme remplace la firme No. 1600)

والتي تعمل في مجال انتاج المواد الكيمياوية الخاصة المستعملة في صيانة المباني والاليات .

وكافة فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت ومنها : —

1823 — KEM INTERNATIONAL CORPORATION

2075, Tucker, Industrial Road, Tucker, Georgia 30084, U.S.A.

(Cette firme remplace la firme No. 1601)

1824 — KEM SUPPLY CORPORATION
San Juan, Puerto Rico

(Cette firme remplace la firme No. 1602)

1825 — KEM MANUFACTURING CORP.

78 South Linden Road, South Sanfrancisco, California, U.S.A.

(Cette firme remplace la firme No. 1599)

بعد ان ثبت ان لها شركة فرعية في اسرائيل تحمل نفس اسمها مضافا اليه : Israel . وبعد ان تمنعت عن الاستجابة لانذار المقاطعة .

1826 — MIRISCH PRODUCTION CO.

وعنوانها :

1041 N. Formosa St. Los Angeles, Calif. U.S.A.

وكافة فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

بعد ان ثبت انها عادت الى انتاج الافلام لتضمن دعاية للصهيونية واسرائيل بعد انذارها رسميا .

(Cette firme remplace la firme No. 1643)

1827 — YARDNEY ELECTRIC CORPORATION

40-52 Leonard Street, N.Y. 10013, U.S.A.

(remplace No. 1806)

والتي تعمل في مجال صناعة البطاريات من نوع :

Silver — Zinc و Silver — Cadmium

وكافة فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت ومنها : —

1828 — YARDNEY CHEMICAL INC. (remplace No. 1805)

1829 — YARDNEY INTERNATIONAL CORP. (remplace No. 1808)

1830 — YARDNEY ENTERPRISES (remplace No. 1807)

على ان يمنع استيراد منتجات الشركة المذكورة وكافة فروعها من اية جهة او بلد كان دونما استثناء .

بعد ان ثبت انها منحت الشركة الاسرائيلية :
Tadiran Israel Electronics Industries
ترخيصا بصنع منتجاتها من البطاريات ، وبعد ان تمتعت من الاستجابة لانذار المقاطعة .

FIRMES LIBEREES

57 — BANCO AMERICANO ISRAELI

بعد ان ثبت انعدام وجوده القانوني .

492 — PHILADELPHIA NATIONAL BANK

NAVIRES BOYCOTTES

30 — OVERSEAS BULKER

Ex / Overseas Explorer

Ex / Globe Explorer — Ex / Carribean Star

بعد ان ثبت ان الباخرة الليبيرية :

Garibban Star (Carribean Star)

قد غيرت اسمها وجنسيتها بحيث اصبح اسمها الحالي :
Overseas Bulker
وجنسيتها الحالية امريكية .

YOUGOSLAVIE

FIRMES BOYCOTTEES

14 — SAPONIA TVORNICA SAPUNA

2, Matije Gupca Ulica Osijek

وكافة فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

على ان يكون الحظر جزئيا ، بحيث يقتصر على المنتجات التي تصنعها بترخيص من الشركة الامريكية: Helena Rubinstein Ltd.
المحظور التعامل معها ومع كافة فروعها ومن هذه المنتجات تلك المبينة فيما يلي : —

1 — Skin Life Cream

2 — Eye Shadow Stick

3 — Eye Pencil

4 — Eye Cream Special

5 — Eye Liner

6 — Fashion Matte

7 — Skin Dew Emul Sion

8 — Skindew Cream

9 — Skin Dew Emollient Cleanser

10 — Skin Dew Cleanser Concentrate and Eye Make up Remover

11 — Skin Dew Herbal Lotion

12 — Skin Dew Freshener and Toner

13 — Skin Dew Eye Cream

14 — Skin Dew Hand Cream

15 — Orbital Glint

16 — Skin Life Emulsion

17 — S.F.C.M. up — Re Fill

18 — English Complexion Powder

19 — Silk Fashion Complex

20 — Illumination Eye

بعد ان ثبت ان الشركة الامريكية: Helena Rubinstein Ltd.
المحظور التعامل معها ومع كافة فروعها قد منحتها ترخيصا بصناعة منتجاتها ، فضلا عن انها قدمت لها الخبرات الفنية وتقدم لها المواد الخام .

15 — LUXOL

Zrenjanin 2300 P.O.B. 50

وكافة فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

على ان يكون الحظر جزئيا ، بحيث يقتصر على منتجاتها من صبغات الشعر واحمر الشفاه وطلاء الاظافر والمساحيق التي تنتجها بترخيص من الشركة الامريكية: Helene Curtis International
وبالتعاون مع الفرع الهولندي للشركة الامريكية :
Helene Curtis Europa N.V.

المحظور التعامل معه ، والتي تدرج فيما يلي انواعها : —

ا — صبغة الشعر : BOJEZA KOSU

1 — CRNA / 1

2 — Ultra CRNA — 2

3 — Crnosmedja — 10

4 — Tamnosmedja — 11

5 — Smedja — 12

6 — Svetlosmedja — 13

7 — Tamnoplava — 14

8 — Plava — 15

9 — Svetloplava — 16

10 — Ultra Plava — 17

FIRMES DONT LES PRODUITS SONT PROHIBES

ADDITIF NO. 3, DECISION DU CONSEIL DES MINISTRES PRISE EN SA SEANCE DU 12-6-1974 [P-V NO. 29/33]

TANZANIE

2 — WAFUGAJI WAKUKU CO. COOPERATIVE SOCIETY

بعد ان ثبت انها تستورد اصناف الدواجن لتربيتها وكذا الصواني لتعبئة البيض ، مما يجعل منتجات هذه الشركة اسرائيلية.

U.S.A.

الجوارب النسائية التي تحمل الماركات التالية :

1 — Beauty Mist

2 — Today's Girl

3 — May Queen

4 — First — To — Last

وذلك بعد ان ثبت انها تصنع من قبل الشركة الاسرائيلية : ـ جيبور لكسنايل انترپرايزيس ليمتد »

لحساب الشركة الامريكية : Hanes Corporation

YOUGOSLAVIE

1 — COOPERATIVA EXPORT — IMPORT

Obilicev Venac 5, P.O.B. 183, Beograd 41000

وذلك بعد ان ثبت انها تقوم باستيراد الفول السوداني من اسرائيل ، ثم تقوم بتقشير وتعبئة هذا الفول وعرضه للبيع.

2 — HERCEGOVKA MOSTAR

Mostar 679000

وذلك بعد ان ثبت انها تحصل على الحمضيات الاسرائيلية من طرف المؤسسة اليوغوسلافية : Bosnaplod

وتقوم بتصنيعها وتعبئتها في عبوات مختلفة .

3 — NAVIP — IZVOZNO PREDUZECE

Beograd -- Zemun 11081 Sime Solaje 7

وذلك بعد ان ثبت انها تستورد البرتقال والليمون من اسرائيل وتقوم بتصنيعهما وبيعهما في شكل عصير برتقال وعصير ليمون باحجام مختلفة .

4 — VITAMINKA TVORNICA VOCNIH SOKOVA I KONZERVI

Banjaluka 78000 Pilansk 23

وذلك بعد ان ثبت انه يدخل المواد والمنتجات الاسرائيلية في منتجاته من عصير البرتقال وعصير الليمون .

FIRMES ET NAVIRES BOYCOTTES – POUR TRAFIC AVEC ISRAEL

ADDITIF NO. 4, DECISIONS DU CONSEIL DES EN SA SEANCE DU 11-9-1974 [P-V NO. 43/19 – P-V NO. 43/22]

163 — UNIVERSUM PRESS WYLER & CIE.

/5, Ch. des Huguenots . في جنيف

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

على ان يكون الحظر نهائيا .

وعلى ان يشمل هذا الحظر نشراتها الاقتصادية السماة : « Informations Privees » وسائر المنشورات التي تصدر عنها

وعلى ان تدرج اسماء اعضاء مجلس ادارتها والمساهمين الرئيسيين فيها والمشرفين عليها ممن تثبت عليهم تهمة الميول الصهيونية على قائمة الاشخاص الممنوعين من دخول لبنان .

بعد ان ثبت انها تحث على دفع التبرعات لاسرائيل وتنشر منشوراتها للتهجم على الدول العربية وتمجيد اسرائيل ، فضلا عن ان معظم راسمالها مملوك لشخصين معروفين بنشاطاتهما الصهيونية ومسؤولين بارزين في منظمات صهيونية .

TURQUIE

FIRMES BOYCOTTEES

المكتب السياحي التركي :

235 — EMNIYET SIYAHAT ACANTASI

واسمه باللغة الانكليزية :

Emniyat Travel and Tourism Agency
(Asir Efendi Cad. Atabey Han, No. 1 Istanbul)

وسائر فروعه والشركات والمؤسسات والهيئات والمكاتب التي تساهم معه ماديا او معنويا حيثما وجدت .

على ان يكون الحظر نهائيا .

وعلى ان تدرج اسماء اعضاء مجلس ادارته والمساهمين الرئيسيين فيه والمشرفين عليه ممن تثبت عليهم تهمة الميول الصهيونية على قائمة الاشخاص الممنوعين من دخول لبنان .

بعد ان ثبت انه يخصص ٩٥ / من اعماله لتشجيع الهجرة لاسرائيل وتنظيم رحلات الشباب والجمعيات النقابية والحرفية الى اسرائيل ، وتنشيط الشباب للعمل في المزارع الاسرائيلية والقيام بالدعاية لاسرائيل ، فضلا عن ان مالك المكتب وزوجته من ذوي الميول الصهيونية ويعملان على دعم اسرائيل اقتصاديا وعسكريا .

U.S.A.

FIRMES BOYCOTTEES

1831 — THE DURIRON CO. INC.

425 North Findlay Street. Dayton, Ohio 45401

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت ومنها : –

١ – Duriron of Canada

ومعنعها ومكتباها في العنوانين التاليين : –

لها والمشرفين عليها ممن تثبت عليهم تهمة الميول الصهيونية على قائمة الاشخاص الممنوعين من دخول لبنان .

بعد ان ثبت ان الصهيوني المدعو : « David Nessim Gaon » الممنوع من دخول البلاد العربية لثبوت تهمة الميول الصهيونية عليه يمتلكها كلية .

160 — C.O.S.I. LES COLLINES DE SION S.A.

(10, Rue de la Dent — Blanche, Sion)

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

على ان يكون الحظر نهائيا .

وعلى ان تدرج اسماء اعضاء مجلس ادارتها والمساهمين الرئيسيين فيها والمشرفين عليها ممن تثبت عليهم تهمة الميول الصهيونية على قائمة الاشخاص الممنوعين من دخول لبنان .

بعد ان ثبت ان راس المال الاسرائيلي يساهم فيها بنسبة تزيد على ٣٠ / ، وان الغرض من انشائها هو المساهمة في التنمية السياحية لاسرائيل .

161 — FINGAMCO S.A.

(78, Rue du Rhone, Geneve)

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

على ان يكون الحظر نهائيا .

وعلى ان تدرج اسماء اعضاء مجلس ادارتها والمساهمين الرئيسيين فيها والمشرفين عليها ممن تثبت عليهم تهمة الميول الصهيونية على قائمة الاشخاص الممنوعين من دخول لبنان .

بعد ان ثبت ان المدعو « نسيم دانيد جاعون » الممنوع من دخول البلاد العربية لثبوت تهمة الميول الصهيونية عليه يمتلك ٥١ / من راسمالها .

162 — SIDECO A.G.

7, Stampfenbochstr Zurich

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

على ان يكون الحظر نهائيا .

وعلى ان تدرج اسماء اعضاء مجلس ادارتها والمساهمين الرئيسيين فيها والمشرفين عليها ممن تثبت عليهم تهمة الميول الصهيونية على قائمة الاشخاص الممنوعين من دخول لبنان .

بعد ان ثبت ان الشركة الاسرائيلية :

Deco Swiss Israel Dehydration Cot. Ltd.

تمتلكها كليا .

— 3415Cote Verty Road Montreal — P.Q. Canada
— 43 Millwick Drive Weston (Toronto) Ontario, Canada
(Voir Canada No. 203)

— ١

— S.A. Durco Europe N.V.
96 Avenue de l'Arencaria B1020 Brussels-Belgium) (Voir Belgique No.179)

— ٢

— Durco G.M.B.H. (Frankfort - Germany)
(Voir Allemagne No 236)

— ٤

1832 — DURCO INTERNATIONAL SALES CORP. (D.I.S.C.)

— ٥

1833 — PRESSURE PRODUCTS INDUSTRIES INC.

Hatboro, Pennsylvania : وفرعاها

ا ـ مصنعها الواقع في بلدة Villow Grove بولاية بنسلفانيا.

ب ـ شركتها الفرعية المسماة :

Pressure Products Industries
(U.K.) Ltd. London - England
(Voir Gr.-Bretagne No. 1239)

— ٦

1834 — CHEMTRONIC SYSTEMS, INC. BROOKFIELD, OHIO

— ٧

1835 — ENZINGER — DIVISION OF DURIRON
9542 Hardpan Road Angola — New York 14006

— ٨

1836 — MODERN INDUSTRIAL PLASTICS

على ان يكون الحظر نهائيا ،

وعلى ان تدرج اسماء اعضاء مجلس ادارتها والمساهمين الرئيسيين فيها والمشرفين عليها ممن ثبت عليهم تهمة الميول الصهيونية على قائمة الاشخاص الممنوعين من دخول لبنان .

بعد ان ثبت من كتابها المرسل لغرفة تجارة وصناعة الكويت تحيزها والقائمين عليها ضد الشعوب والدول العربية واعطاء تعليماتها الى المسؤولين لديها بعدم التعامل مع البلاد العربية وانهاء جميع ميعالها واتفاقاتها مع البلاد العربية .

1837 — HASBRO INDUSTRIES INC.

1027 — Newport Avenue - Pawtucket - Rhode Island 02861

(Cette firme remplace la firme No. 1569)

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت ومنها : ـ

1838 — EMPIRE PENCIL DIVISION (remplace le No. 1527)

1839 — EMPIRE GRAPHITE DIVISION (remplace le No. 1526)

1840 — HASBRO TOYS DIVISION (remplace le No. 1570)

1841 — G.I. JOE DIVISION (remplace le No. 1556)

1842 — MALLARD PEN & PENCIL CO. INC. (remplace le No. 1627)

وشركاتها الفرعيتان :

1843 — A — GEORGETOWN INDUSTRIES INC. (remplace le No. 1558)

1844 — B — BLUE RIBBON PEN & PENCIL CO. INC. (remplace le No. 1462)

1845 — HASBRO INDUSTRIES (FALL RIVER) INC.

1846 — CLASTER ENTERPRISES INC. (remplace le No. 1484)

وشركاتها الفرعيتان :

1847 — A — ROMPER ROOM ENTERPRISES, INC. (remplace le No. 1712)

1848 — B — ROMPER ROOM CHILD DEVELOPMENT CENTER INC. (remplace le No. 1711)

— HASBRO INDUSTRIES (CANADA) LTD. (Voir Canada No. 189)

وتعرف ايضا باسم :

— HASSENFELD BROTHERS (CANADA) LTD.

— HASBRO LTD. ENGLAND (Voir Gr.-Bretagne No. 1079)

1849 — HASSENFELD BROTHERS TEXTILE CO. INC. (remplace le No. 1571)

1850 — WOODLAND DISTRIBUTING CO. (remplace le No. 1803)

بعد ان ثبت انها الشركة الام للشركة الاميركية : ـ

Hassenfeld Brothers Pencil Co.

المعروفة ايضا باسم : Empire Pencil Co.

والحظر التعامل معها ومع كافة فروعها .

1851 — INTERNATIONAL RECTIFIER CORP.

(9220 Sunset Boulevard Los Angeles, California 90069)

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت ومنها : ـ

ا ـ الشركة الاميركية :

1852 — DALLONS LABORATORIES

ب ـ الشركة الاميركية :

وعلى ان تدرج اسماء اعضاء مجلس ادارتها والمساهمين الرئيسيين فيها والمشرفين عليها ممن تثبت عليهم تهمة الميول الصهيونية على قائمة الاشخاص الممنوعين من دخول لبنان .

بعد ان ثبت ان مجال عمل الشركة ينحصر في تقديم الاستشارات الاقتصادية والتجارية لتعريف السلع الاسرائيلية في الاسواق الاميركية وتقديم المساعدات لتشجيع استيراد تلك السلع الى الولايات المتحدة الاميركية وان نشاطها ينصب على العمل في خدمة الاقتصاد الاسرائيلي ، فضلا عن ان كلمة اسرائيل تدخل في اسمها .

1856 — NEUMANN'S ISRAEL NOVELTIES

75-71 Utopia Parkwaw Flushing, N.Y. 11366

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

على ان يكون الحظر نهائيا .

وعلى ان تدرج اسماء اعضاء مجلس ادارتها والمساهمين الرئيسيين فيها والمشرفين عليها ممن تثبت عليهم تهمة الميول الصهيونية على قائمة الاشخاص الممنوعين من دخول لبنان .

بعد ان ثبت ان نشاطها ينحصر في استيراد الهدايا والجوهرات الخفيفة والتحف من اسرائيل وبيعها ، فضلا عن ان كلمة اسرائيل تدخل في اسمها .

FIRMES LIBEREES

1204 — SPARTANS INDUSTRIES INC.

(E.J. Korvette Inc. : التي كانت تعرف سابقا باسم

(1160 Avenue of the Americas, New York N.Y. U.S.A.)

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

1853 — RACHELLE LABORATORIES INC.

بعد ان ثبت انها تقوم بتقديم المعونة الفنية للشركة الاسرائيلية: Elmedics Ltd.

وان شركتها الفرعية

(Rachelle Laboratories Inc.)

ابرمت عقدا مع الشركة الاسرائيلية : (Assis) لانشاء مصنع مشترك في اسرائيل لانتاج الادوية ، وان شركتها الفرعية الاخرى (Dallons Laboratories) عقدت اتفاقية تصنيع مع الشركة الاسرائيلية : —

Ebron Electronic Instruments Ltd.

وبعد ان امتنعت عن الاستجابة لانذار المقاطعة .

1854 — ISRAELI HANDICRAFTS IMPORTING CO.

94, Canal Street, New York, N.Y.

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

على ان يكون الحظر نهائيا .

وعلى ان تدرج اسماء اعضاء مجلس ادارتها والمساهمين الرئيسيين فيها والمشرفين عليها ممن تثبت عليهم تهمة الميول الصهيونية على قائمة الاشخاص الممنوعين من دخول لبنان .

بعد ان ثبت انها مملوكة كليا للمدعو : Joseph Abada الممنوع من دخول البلاد العربية لانه يحمل الجنسية الاسرائيلية والاميركية معا .

1855 — ISRAEL ENTERPRISES INC.

(1426 Walnut Street, Philadelphia, Pennsylvania 19102)

وسائر فروعها والشركات والمؤسسات التي تساهم معها ماديا او معنويا حيثما وجدت .

على ان يكون الحظر نهائيا .

Chairman MORGAN. Thank you. The committee stands adjourned until 9 o'clock tomorrow morning.

[Whereupon, at 12:15 p.m., the committee adjourned, to reconvene at 8 a.m., Thursday, June 10, 1976.]

EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

THURSDAY, JUNE 10, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C.

The committee met at 9:20 a.m. in room 2172, Rayburn House Office Building, Hon. Thomas E. Morgan (chairman of the committee) presiding.

Chairman MORGAN. The committee will please come to order.

The Committee on International Relations today begins its third day of hearings on the Export Administration Act. During the 2 previous days we received testimony from the Departments of State, Defense, and the Treasury.

Today we are going to hear from Members of Congress and some private groups. Because of the large number of witnesses we have today, we scheduled this session at 9 a.m. and we hope to continue until 12 noon or later, if we can.

We would appreciate it if most of the witnesses could summarize their statements or keep them as short as possible.

Our first witness today is a distinguished member of this committee, the very active and dedicated Member of Congress from the State of New York, the Honorable Benjamin Rosenthal.

Mr. Rosenthal, you may proceed.

STATEMENT OF HON. BENJAMIN S. ROSENTHAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. ROSENTHAL. Thank you, Mr. Chairman.

BOYCOTT PRESSURE ON U.S. BANKS

Mr. Chairman, I appreciate the opportunity to appear before you to testify on Arab and other foreign boycotts of American business. The Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs, which I chair, has just held 2 days of hearings on this subject.

The focus of that inquiry was the pressures exerted on the American financial community and through it, American industry, to comply with Arab boycott demands. Among the witnesses were Chairman Roderick Hills of the SEC; the General Counsel of the Federal Reserve Board; the head of the Commerce Department's Office of Export Administration, and officials of Chemical Bank and Morgan Guaranty.

The thrust of the testimony was twofold. First, virtually all of this country's banks have been forced to extract their customers' compliance with the boycott as the price of their receiving payments under Arab letters of credit. Second, Federal agencies consider themselves virtually powerless to protect U.S. banks and industry from these pressures.

Those hearings put the lie to one of the prime contentions of boycott apologists that the boycott is directed solely against Israel. As the top bank and Federal officials made clear, the Arab boycott is largely a boycott of American business.

In its secondary aspect, the boycott seeks to prevent American industry from doing business with one of this Nation's principal trading partners—Israel—and precludes blacklisted American firms from doing business in the growing markets of the 20 States of the Arab League.

In the boycott's so-called tertiary aspect, American companies are pressured into discriminating against other American companies; that is those on the boycott list.

OPERATIONS OF THE BOYCOTT

Mr. Chairman, it is important to understand how the boycott of American business operates. Virtually from the founding of Israel in 1948, Arab States ceased to do business with that state. While an unfortunate consequence of the hostilities in the Middle East, nevertheless this severance of economic relations has precedents in international relations and resembles U.S. policy with respect to countries such as Cuba, Vietnam, and North Korea.

But, the Arab States carried this practice further and elected to include innocent third parties, including American businesses, not otherwise involved in the Middle East dispute.

This escalation led to the development of a list of mostly American companies and individuals allegedly connected in some way with Israel or with Jews with which no Arab State or company could do business. This is the Arab blacklist, which in the 1970 Saudi Arabian version made public by the Senate Subcommittee on Multinational Corporations, contains the names of 1,500 more or less U.S. companies and financial institutions.

The theory of the boycott is simple. No company on the blacklist should expect to do business with any Arab States or business. Conversely, any company doing business with an Arab State or business cannot do business with Israel.

In practice, as a condition of doing business with Arab interests, exporters are asked to certify that they do not sell to Israel, shipping lines must confirm that vessels stopping at Arab ports have not stopped in Israel, manufacturers must stipulate that they have no Israeli operations and their products contain no Israel-made components, banks honor certain letters of credit only for customers who certify they have no dealings with Israel.

This economic pressure by Arabs directly against U.S. firms has been called the secondary boycott. But, the reach of the boycott can be far wider to encompass not only doing business with Israel, but also doing business with any company which does business with Israel.

U.S. firms are thus put in the position of discriminating against other U.S. firms pursuant to the dictates of foreign governments. In any form, it is equally repugnant in restricting the freedom of American concerns to do business with whom they wish.

IMPACT OF THE BOYCOTT

The Arab boycott has an enormous impact upon American business. The House Commerce Investigations Subcommittee reported last month that American firms are complying with over 90 percent of the boycott requests as the cost of doing business with Arab States.

The subcommittee, headed by Congressman Moss, also found that during 1974 and 1975, 637 U.S. exporters sold at least $352.9 million and as much as $781.5 million in goods and services under boycott conditions.

The actual figure is unknown since many firms reporting to the Commerce Department on boycott pressures refused to admit whether they had given in or not. The Commerce Department has required information as to compliance only since late 1975.

In the hearings before my subcommittee, banks gave graphic evidence of the pervasiveness of boycott requests. The resident counsel of Morgan Guaranty testified that in the 4 months from December 1975 to April 1976 his bank had received 824 letters of credit in a total amount of $41,237,815 containing boycott clauses.

These letters of credit were issued not only by Arab banks but also by banks in other Asian and African countries which have joined the boycott against American businesses. In each of these instances, Morgan Guaranty exacted compliance with the boycott as a condition of payment to the American exporter under the letter of credit.

Appearing on the boycott list can have a significant impact upon a U.S. company's business. RCA offers a typical example. Prior to being included on the blacklist, RCA did about $10 million worth of business annually with the Arab world.

The company had every reason to believe, it has said, that its sales would have increased substantially over this figure. Today, as a consequence of being boycotted, RCA operations in Arab countries have shrunk to under $1 million, which they state is a direct loss of over $9 million.

EFFECT ON ISRAEL

The boycott not only is hurting American businesses which must choose between doing business with Arabs or Israelis, it is also having a dire and direct impact upon Israel. This impact has been greatest in certain high technology areas where the compliance of a few American firms with the boycott precludes access to vital new developments.

In the area of energy exploration, for example, Israel has been unable to draw upon the services of the American petroleum giants for assistance in finding new sources of oil. This has forced Israel into a partnership with a non-American company and has prompted strict secrecy as to the identity of this company for fear of reprisal.

Communications technology is another area where Israel has had to look elsewhere at greater expense for the assistance which American companies could better provide. This impact on both U.S. companies

and Israel threatens to increase substantially unless strong action is taken to curb the domestic boycott.

A Saudi Arabian minister was recently here in the United States exploring American investment in a Saudi development plan. In a recent interview, he made it clear that investors would have to make boycott declarations and certifications, thereby excluding the 1,500 American companies on the blacklist and undoubtedly widening the number of companies which will feel constrained to avoid business with Israel.

The Commerce Department estimates that Arab-American trade, which amounted to $5.5 billion in 1975, is likely to double by 1980. Action is urgently required before large segments of American industry are divided into two groups, each one excluded from the other's Mideast market.

UNCERTAINTY IN APPLICATION OF THE BOYCOTT

It is important, Mr. Chairman, to point out that the Arab boycott is not an ironclad and impermeable structure. Indeed, the many leaks in the boycott create an evil of their own in that they have created a new cottage industry based on evading the boycott or getting off the boycott list.

There is no single boycott list. Although there is a coordination body based in Damascus which has power to recommend addition or deletion from the blacklist, each of 20 Arab countries and the Arab League itself has its own blacklist with its own wrinkles. The situation is further complicated by the length and complexity of the boycott regulations which contain 100 pages of detailed rules.

Finally, confusion is guaranteed by the secrecy surrounding the list and the regulations. The boycott office has refused to make available copies of either. The only published versions, dated 1970 and 1972 respectively, were first made public in February 1976 by the Senate Subcommittee on Multinational Corporations.

The nature of the boycott as a capricious and extortionist device is clear from the reactions of some American companies to the discovery that they were on the 1970 Saudi Arabia list. A spokesman for the Hertz system, which has licensed auto rental outlets in both Israel and Egypt, declared: "We are puzzled to find ourselves listed. From time to time we get applications from parties in Arab lands for licenses."

The chairman of the Lord and Taylor department store chain said that he first learned of the blacklist in 1971 when a shipment of goods was impounded in Saudi Arabia. "So we know we are on the list," he said. "But, we don't know why, never having been told."

A Burlington Industries spokesman noted, "I did not know we were on any blacklist, and I don't know why we should be. We are shocked to hear it. We do business with both Israel and the Arab world—far more business in the Arab world, in fact."

The Republic Steel Corp. observed that it had been put on the list "although we have neither any investments or interest in the Mideast."

American Electric Power Co. spokesmen were similarly bewildered as to their company's appearance on the list.

Those companies which could ascribe reasons to their being blacklisted disclosed a catalog of capricious and arbitrary actions by Arab boycott administrators. Xerox Corp. attributed blacklisting to a documentary on Israel sponsored in 1966. Coca-Cola was on because it granted a franchise to an Israeli bottling company in the mid-1960's.

Sears, Roebuck & Co. said its inclusion was due to the mistaken impression that a British company, Sears Holding, Ltd., was in some way an affiliate. It is not. General Tire and Rubber appeared because a subsidiary, since sold, once had a service arrangement with an Israeli company.

Fortune magazine has noted that dozens of firms listed cannot be found and some no longer exist. A spokesman for Laurance Rockefeller speculated that Laurance Rockefeller Associates—which never existed—is mentioned because Rockefeller and a few colleagues once had a minor interest in Elron Electronics Industries, an Israeli company, which they sold in 1967.

REMOVAL FROM THE BOYCOTT LIST

The experience of American companies in trying to get their names off or keeping their names off the blacklist throws a different cast upon the nature of the boycott. Instead of being a weapon in the war against Israel, the boycott appears more as a means of extorting bribes and additional business from U.S. concerns.

Earlier this year the SEC accused General Tire and Rubber Co. of failing to disclose that it had paid $150,000 to a Saudi Arabian to get its name off the boycott list. The alleged recipient was none other than Adnan Khashoggi, the same individual who has been implicated in many, many other Mideast commissions. General Tire subsequently agreed to a court injunction barring future violations.

Bulova had a similar experience. Despite having no dealings in the Middle East apart from its watches being on sale at duty free shops, Bulova was placed on the blacklist. Later a Syrian lawyer approached the company and offered a retainer to get its named removed.

Unfortunately, the lawyer was executed in a Damascus public hanging before he could fulfill his promise. Undoubtedly other American companies have been forced to resort to similar payoffs to get themselves off the blacklist.

But, the usual method of negotiation to expunge a name or keep it off is somewhat subtler. What appears to be required is a willingness to make an appropriate contribution to the economies of the Arab world. Sometimes the contribution reportedly can be a strict quid pro quo. Secretary Simon testified to this extortionist arrangement yesterday before this committee.

Hence, Xerox is "negotiating" to have its name stricken. The documentary film about Israel which prompted the blacklisting cost the company $230,000 to produce. Xerox has been told that an investment of a like amount in an Arab State would suffice for delisting.

Ford Motor Co. is talking with the Egyptians about a similar arrangement—assembling in Egypt automobiles to offset the 5,000 Ford cars annually produced by an Israeli concern. The New York Times reported that Sony was approached with a like arrangement—an elec-

tronics enterprise in an Arab country to "compensate" for one in Israel.

Sometimes exceptions are made without explicit agreement due to the bargaining position of the American concern. Hence, defense contractors such as McDonnell Douglas, United Aircraft, General Electric, Hughes Aircraft, and Texaco do business in both Israel and the Arab States without any apparent boycott interference. This is also true of Hilton and IBM.

But how many smaller American exporters or manufacturers can afford to enter into similar agreements with the Arabs? Why should they be forced to submit to such extortion which is a violation of express U.S. policy?

According to recent indications, this bribery may become even more widespread. An article by the Arab press service cites pressures on the central boycott office being exerted by individual Arab States to allow multinational companies to buy their way off the blacklist by making investments twice the size of their investment in Israel.

This would institutionalize the current informal extortion and bribery which charactertizes the listing and delisting process.

TERTIARY BOYCOTT

Thus, far, Mr. Chairman, I have dealt with the direct impact of the boycott on American firms, the so-called secondary boycott. I would like now to turn the attention of the committee to an aspect of the boycott which has occasionally been called the tertiary boycott—the discrimination of certain American firms against other American and European firms under pressure from Arab States.

This form of compliance with the boycott is illustrated by the following examples:

According to the testimony of SEC Chairman Hills before my subcommittee, a "$30 to $40 million American company" interested in receiving Arab investments felt compelled to end its sizable account with an American investment banking firm because of the latter firm's close relations with Israel.

A U.S. bus manufacturer had its contract to sell buses to an Arab State terminated when it was learned that the seats were to be made by an American company on the blacklist.

Two American investment banking firms were disciplined by the National Association of Security Dealers—NASD—for violating that organization's rules of fair practice in substituting nonblacklisted affiliates for blacklisted firms in underwritings with Arab participation.

ANTITRUST VIOLATION

Bechtel Corp. was sued by the Justice Department for violating the Sherman Antitrust Act in refusing to deal with blacklisted American subcontractors and requiring American subcontractors to refuse to deal with blacklisted persons or entities.

As the last example makes clear, there are many who feel that this so-called tertiary boycott—that is, American firms discriminating against American firms—violates the antitrust laws which outlaw conspiracies in restraint of trade.

President Ford apparently shares that opinion. In a thoughtful and innovative statement made on November 20, 1975, he clarified his administration's position on the boycott and modified agency practice to outlaw compliance with the religious and racial, but not economic, aspects of the boycott.

As part of his address, he remarked:

> The Department of Justice advises me that the refusal of an American firm to deal with another American firm in order to comply with a restrictive trade practice by a foreign country raises serious questions under the U.S. antitrust laws.

Other commentators suggest that the antirust laws extend even to the secondary boycott where an American firm refuses to deal with Israel in compliance with boycott pressures.

I welcome and commend the actions of the President and the Justice Department in this regard. I share their conclusions about the applicability of the antitrust laws at least to the tertiary boycott.

But, we all know that actions through the courts to enforce the antitrust laws can be extremely lengthy, time-consuming and unpredictable.

Bechtel has raised numerous defenses to the lawsuit including the undisputed fact that the U.S. Government at times has encouraged trade with Arab League countries, knowing that boycott compliance was a commercial requirement and that an alleged exemption from the antitrust laws for foreign acts of state may be applicable.

According to the San Francisco Examiner, Bechtel itself is apparently continuing to bow to blacklist pressures and has circulated letters to its subcontractors stating that Israeli goods or materials shipped on blacklisted vessels could not be used in a $20 billion seaport construction project in Saudi Arabia.

Enforcement of the antitrust laws, while laudable, is therefore not the most expeditious or effective means of ending this boycott of American businesses.

ANTI-JEWISH IMPACT OF THE BOYCOTT

I have so far addressed myself to the economic aspects of the boycott. There is another side. Few people seriously maintain that the boycott is not also anti-Jewish. Senate investigators and others have uncovered numerous instances where American individuals or companies were apparently denied business with Arab States solely because they or their officers, employees, or shareholders were Jewish.

Two colonels in the Army Corps of Engineers admitted to a Senate subcommittee that the corps had given in to Arab pressure to exclude Jewish personnel from projects in Saudi Arabia. They admitted that private U.S. companies were subject to the same anti-Jewish requirement.

I will not, however, dwell on this important aspect of the boycott because I feel it has been well-documented and is the subject of the executive memorandum dated November 20, 1976.

I wish only to say that the illegality of such discrimination based on religion, national origin, sex or race should be clarified and expanded to all American companies through appropriate language in the Export Administration Act.

SUPPORT FOR LEGISLATIVE ACTION

Mr. Chairman, many American businesses have joined in the denunciation of the Arab boycott which has put them in the unconscionable position of having to refuse to do business with an ally and major trading partner of the United States—Israel—in return for business from the Arab world.

They urge the passage of legislation which, once and for all, would enable, indeed require, them to turn down such requests. Among the American firms reported taking this position are General Mills, Bausch and Lomb, Pillsbury, First National Bank of Chicago, Northwestern National Bank of Minneapolis, Provident National Bank of Philadelphia, and the Marine National Exchange Bank of Milwaukee.

I think it is fair to say that these sentiments are shared by large segments of the American business community. Important Federal officials have also urged strong congressional action to end the discriminatory impact on American business of boycott compliance. Principal among these has been Chairman Arthur Burns of the Federal Reserve Board, who in a letter to my subcommittee, dated June 3 stated:

> The time has come for Congress to determine whether it is meaningful or sufficient merely to "encourage and request" U.S. banks not to give effect to the boycott. It is unjust, I believe, to expect some banks to suffer competitive penalties for responding affirmatively to the spirit of U.S. policy, while others profit by ignoring this policy. This inequity can be cured if Congress will act decisively on the subject.

BOYCOTT PROVISIONS OF THE EXPORT ADMINISTRATION ACT

Before I discuss the steps which I feel must minimally be taken to end this boycott of American business, let me summarize the present provisions of the Export Administration Act which pertain to the boycott and some other statutory weapons against the boycott which have unfortunately not proven wholly effective.

There are three sections of the current Export Administration Act relating to the boycott. The first, section 3(5), declares in effect that it is U.S. policy to oppose boycotts imposed by foreign countries against countries friendly to the United States.

A second provision requires companies to report to the Commerce Department all requests for boycott compliance. In December 1975, subsequent to the President's declaration, the Department announced it had fined four companies and warned 212 others for failure to report boycott requests properly.

Tightened department regulations now extend these reporting requirements to banks, insurers, freight forwarders, shipping companies and other businesses that serve exporters, and include the obligation to report whether or not they plan to go along with boycott requests.

Moreover, Department regulations outlaw compliance with boycott requests which involve discrimination against Americans based upon their race, color, religion, sex, or national origin. These prohibitions are widely known.

There is, however, a third provision of the Export Administration Act which, if enforced, would obviate having to strengthen the act to protect American concerns from the boycott.

This is section 4(b)(1) of the act which gives the President the power to "effectuate the policies set forth in section 3," including the antiboycott policies through limiting export privileges and imposing other unspecified sanctions against related service companies which act contrary to these stated policies.

In a letter to the Government Operations Subcommittee, then Commerce Secretary Rogers Morton admitted that this language was the only authority he needed to outlaw all compliance with the boycott. Unfortunately, neither he nor his successor has seen fit to use this power, despite the clear congressional intent that it be used.

OTHER LAWS WHICH APPLY TO THE BOYCOTT

Other laws or regulations which apply to the Arab boycott include the following:

The Sherman Act outlaws contracts, combinations or conspiracies in restraint of trade. According to the Justice Department—in the Bechtel suit—an agreement not to do business with American companies that deal with Israel would almost certainly be a violation. An American company's promise not to trade with Israel may also be a violation.

The Securities Exchange Act of 1934 requires the disclosure of information which could have a material impact on a public company. SEC Chairman Hills, in testimony before my subcommittee, suggested that compliance with the boycott might have to be disclosed where the company's business or the market line value of its shares would be affected by such disclosure as where customers of a bank might be concerned that such bank was aiding the Arab cause.

In their duty to oversee the privileges and benefits of the banking community and to prevent unsafe or unsound practices, the Federal bank regulatory agencies have outlawed religious discrimination in accepting deposits, investing, or lending. Chairman Burns of the Federal Reserve Board even suggested that processing letters of credit with boycott stipulations violated banks' Federal responsibilities.

Pursuant to the far-reaching Presidential statement of November 20, a number of departments and agencies have issued orders or regulations barring any boycott-related discrimination based upon religion, race, or national origin.

Legislation embodying the principles of the Presidential directive has been passed in New York and Maryland. These States, as well as Massachusetts, Illinois, and Pennsylvania, where similar legislation is under active consideration, are bearing the burden of the belated, piecemeal and insufficient Federal action against the boycott.

LEGAL STATUS OF THE BOYCOTT

Let me summarize the current legal status of the boycott. The Export Administration Act declares the furtherance or support of the Arab blacklist to be against U.S. policy. Companies must report all boycott requests.

They are prohibited from complying with any boycott request which furthers or supports discrimination against U.S. citizens or firms on the basis of race, color, religion, sex or national origin.

They also may be forbidden from discriminating against other U.S. firms, although the Justice Department acknowledges that a foreign boycott has never been held to violate the Sherman Act.

Thus, U.S. law already appears to outlaw the anti-Jewish features of the boycott as well as the so-called tertiary economic aspects of the boycott. But, these prohibitions are embodied in the first instance in regulations based solely on U.S. policy and in the second instance on an antitrust statute only first being applied in a test case.

These prohibitions should be given the force of explicit statutory language. Moreover, no U.S. law is addressed to the most pervasive, sinister, and direct symptom of the boycott—the blacklisting of 1,500 American firms and individuals.

I submit in absolute fairness that it must be made clear that no foreign nation can involve innocent American businesses in its warfare against a nation friendly to the United States.

I respectfully commend to my colleagues on this committee their attention to an amendment to the Export Administration Act which I will submit to accomplish the above. A summary of its principal provisions follows:

(1) The furnishing of any information or taking of any action which has the effect of supporting or furthering the boycott would be prohibited.

(2) Domestic firms would be prohibited from refusing to do business with other domestic firms pursuant to a foreign boycott demand.

(3) All domestic concerns would be barred from furnishing any information regarding the race, religion, sex or national origin of those associated with any business.

(4) All domestic concerns receiving a boycott request would be required to submit reports concerning such requests. These reports would be available for public review.

(5) Also available to the public would be the record of enforcement proceedings under the Export Administration Act.

(6) Suspension and revocation of export privileges would clearly be made proper penalties for boycott compliance, and suspension would be available as a summary remedy without the delays consequent to notice and hearing.

(7) The maximum civil penalty for violation of the antiboycott provisions of the act would be increased to $25,000.

(8) Any aggrieved domestic concern would have access to the Federal courts to initiate a civil action to obtain triple damages and costs along with other appropriate relief.

EFFECT OF OUTLAWING BOYCOTT COMPLIANCE

Concern has been expressed, Mr. Chairman, in some quarters that outlawing compliance with the boycott may adversely affect U.S. trade and diplomatic relations with the Arab world. I would be naive if I did not admit some risk in the course of action I am urging on this committee.

There could be some short-term diversion of trade to other European countries or Japan as the Arabs express anger that their scheme no longer enjoys tacit, if not explicit, American support. But there are several grounds for optimism that the disruption of trade would be neither severe nor long-term.

First: The longstanding and generally amicable commercial relations between this country and the Arabs have survived earlier political vicissitudes. Iraq currently offers a fine example where radical

rhetoric and divergent political philosophies have not interferred with a thriving American business relationship.

The Arabs have become used to the high-quality goods and services which only this Nation can provide in such abundance. Any major shift in commercial dealings would, I believe, work an unacceptable hardship upon the Arab business community and its customers.

Second: Numerous Arab businessmen have expressed private misgivings about the operation of the boycott. They feel it unnecessarily restricts their dealings with blacklisted companies. It also alienates executives of other companies who resent being questioned about their company's business relations or who find it morally repugnant.

No fewer than 22 large American firms have recently pledged not to comply with Arab boycott demands. These include American Brands, Beatrice Foods, El Paso Natural Gas, General Motors, Greyhound, Kennecott Copper, G. D. Searle, Texaco, Textron, and U. S. Gypsum.

Typical of this pledge was that of the chairman of General Motors, T. A. Murphy, who said:

> General Motors has received occasional requests from Arab countries that it agree not to participate in future dealings with Israel or with Israeli companies. * * * General Motors has made no such agreements and would not make any such agreements.

Third: Arab companies have demonstrated in past dealings that an objection to a boycott request would not necessarily lead to a termination of relations. When the Commerce Department in November 1975 outlawed compliance with requests involving discrimination on ethnic or religious grounds, banks were forced to reject letters of credit containing objectionable language.

Morgan Guaranty testified before my subcommittee two days ago that in 23 of the 24 instances where the bank refused to process such letters of credit the offensive boycott language was voluntarily stricken by the Arab or other foreign banks involved and the transaction went through.

There is considerable reason to believe that Arab countries would waive boycott conditions rather than deprive themselves of vital American goods and services.

Mr. Chairman, I am well aware this testimony has been long and even tedious and I appreciate your acknowledgment and well-known patience.

I do, however, want to emphasize the importance of this matter not only for America's moral posture but also for the furtherance of orderly American business relations.

I hope that the amendment I have outlined will receive prompt and favorable consideration so as to end decisively this boycott of American industry. But, whatever vehicle this committee adopts for coping with this urgent problem, I hope we can agree on one goal: Our Nation must no longer acquiesce in the shameful and extortionist pressures of the Arab blacklist which offends American principles of free trade and fair play and which has a destructive, divisive and anticompetitive effect upon American business.

Chairman MORGAN. Thank you, Mr. Rosenthal. I know you put a great deal of work into this statement, and I am sure the committee will be glad to consider your amendment during the markup.

Mr. Whalen.

ROSENTHAL AMENDMENTS

Mr. WHALEN. Thank you, Mr. Chairman.

I certainly want to congratulate my colleague for a very thorough and yet incisive presentation. I have one question; that is, how does your proposed amendment differ from the one that has been offered by Mr. Koch and a similar one by Mr. Bingham?

Mr. ROSENTHAL. Two important amendments are pending before the committee, one the Scheuer-Koch, which is the same as the one adopted in the Senate, and the other the Bingham amendment—I defer to Mr. Bingham to speak to this—which deals directly with the secondary boycott.

I took both themes and merged and polished them. I think this will allow the committee to accept the Stevenson procedural reforms while also prohibiting compliance with the secondary boycott.

Mr. WHALEN. Thank you.

Chairman MORGAN. Mr. Bingham.

Mr. BINGHAM. Thank you. I don't have any questions, but I think our colleague is to be congratulated for his great contribution to the facts available on this important matter and for a very, very thoughtful presentation.

Chairman MORGAN. Mr. Winn.

Mr. WINN. Thank you, Mr. Chairman.

I have no questions. I see several other of our colleagues out there that wish to testify. I want to commend Mr. Rosenthal for a very thorough presentation this morning, and I am sure that his amendment will receive every consideration.

Thank you, Mr. Chairman.

Chairman MORGAN. Mr. Yatron.

Mr. YATRON. Thank you, Mr. Chairman.

I congratulate our colleague on a very thorough, comprehensive report.

Chairman MORGAN. Mr. Lagomarsino.

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

I have no questions, but I would also like to commend the gentleman for his thoughtful presentation.

Chairman MORGAN. Mr. Solarz.

Mr. SOLARZ. Thank you. I do have one or two questions.

Let me first join with our other colleagues on the committee in expressing my sincere and profound admiration for the gentleman's testimony. It is without question one of the most impressive statements I have seen in the brief time I have been here.

I know it is a matter about which the gentleman cares very deeply and he brought to it his customary thoughtfulness and comprehensiveness. I am most impressed with it.

PENALTIES FOR BOYCOTT COMPLIANCE

I gather that under the terms of the proposal you suggest the committee enact, in the event that an American company complies with the boycott request, it would trigger two actions; first, presumably there would be a $25,000 fine. Are you saying, second, that the

administration would then be entitled to revoke any export licenses available to the company anywhere?

Mr. ROSENTHAL. The revocation of an export license is a severe penalty and may have more impact than a $25,000 fine. Both of these sanctions would be available.

Mr. SOLARZ. Thank you, Mr. Chairman.

Chairman MORGAN. Thank you, Mr. Rosenthal.

Our next witness is Mr. John Heinz.

Mr. Heinz, I want to tell you Mr. Bingham has graciously yielded you his place because of your early arrival here this morning and because I know you have some pressing business to attend.

I want to say that John Heinz represents the district next to mine in Pennsylvania. He has been a very active and dedicated member of the Pennsylvania delegation since he arrived here several terms ago to succeed a very close friend of mine and his, Congressman Corbett.

We welcome you here to the committee.

STATEMENT OF HON. JOHN HEINZ III, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. HEINZ. Thank you, Mr. Chairman, very much.

Let me at the outset thank Congressman Bingham from New York for relinquishing his precedence. And second let me thank you for this opportunity to appear and take a moment to observe, Mr. Chairman, that the first time we had the opportunity to meet, it was on the banks of the Chartiers Creek, which both of us were about to fall into, back in 1964. That marked the beginning of some 12 years of a relationship which, in a sense, comes to an end with your retirement at the end of this year. The retirement of "Doc" Morgan in my judgment will cause the Congress to lose an effective statesman, a diligent, effective, and most important chairman in the House.

It has been my privilege to work with you, a wonderful colleague and friend.

EXTENT OF THE BOYCOTT

Mr. Chairman, I am grateful for the opportunity to testify before the International Relations Committee concerning the Arab trade boycott of Israel and its effect on American businesses and corporate morality.

Congressional interest in strengthening the Export Administration Act has revived since it has become apparent that compliance with Arab boycott demands is growing. Allegations have been heard that U.S. companies are engaging in discriminatory practices not only against Israel, but against American firms as well.

My own interest in this question was heightened late last year during hearings held by a Subcommittee of the Interstate and Foreign Commerce Committee, of which I am a member.

At that time, a confrontation took place between the Subcommittee on Oversight and Investigations, John Moss' subcommittee, and then Commerce Secretary Rogers Morton over the release of information on companies that were complying with the embargo.

Along with Congressman Tim Wirth of Colorado, who shared my concerns, we played a role in helping to bring a possible constitutional

crisis to a positive solution. The showdown between Secretary Morton and the subcommittee illustrated two points:

First, if the current law had contained proper reporting and oversight provisions, much of the controversy could have been avoided, and second, discriminatory and repugnant acts by foreign countries were creating divisiveness within our Government.

Let me say at the outset that I am disturbed that these hearings are even needed. Through compliance with the Arab boycott demands, some American corporations have violated the civil rights of American citizens. These corporations have bowed to the economic dictates of the same countries which only a few months ago piously decreed Zionism to be a form of racism.

Yet, it is clear by the Department of Commerce's own figures that deep concern is not unfounded. It is shocking to me—and to the American public—to read that American firms are answering 91 percent of Arab nations' boycott related requests for information, requests that infringe on the civil rights of over 2,000 blacklisted corporations in addition to those of countless American citizens.

Prior to the Arab oil embargo, it was clear that U.S. businesses were paying scant attention to the Arab call for world discrimination against the State of Israel. The artificially induced oil shortage changed that, allowing the Arabs and their allies to flex their economic muscle for the first time and tragically to bring some American firms to their economic knees.

Arab boycott restrictions have already begun to have an impact on our domestic affairs. In my own State of Pennsylvania, Aramco refused competitive bids from private companies associated with the Delaware River Port Authority after antiboycott legislation was introduced in the State legislature.

With this refusal the port lost at least 200,000 work hours per year on a contract expected to last 5 to 10 years. While being only one subtle example of discrimination, States such as Maryland and New York with similar antiboycott laws have found that companies doing business with Arab nations simply avoid their ports.

At a time when the employment picture is beginning to look a little brighter, loss of business will have a devastating effect on the economy of Philadelphia as well as the entire State.

NEED FOR STRONGER FEDERAL LAWS

The fact that this situation is occuring—that American and multinational companies are discriminating against the people of one State—demonstrates the need for stronger Federal laws to outlaw boycott related discrimination that only benefits the Arab nations.

It is clear, Mr. Chairman, that we cannot allow this type of discrimination to continue. We cannot allow another country to pit State against State, American against American, Christian against Jew.

As we celebrate the anniversary of our first freedoms, it is unthinkable that we would allow the rights of even one American citizen to be rolled back to the witch hunt blacklist era of the early 1950's or the days when some American citizens were only three-fifths of a man. Our rights and independence were bought at too dear a price to permit any country or individual to violate them.

While I do not approve of over-regulation of commerce between our businesses and foreign nations, there is little doubt of the need for stronger laws to protect American firms from pressure or temptation to discriminate.

As the law is presently written, the Export Administration Act vaguely declares U.S. policy against restrictive trade practices and boycotts upon countries friendly to the United States.

But these laws, while strong in declaratory statements, only weakly "encourage" or "request" U.S. firms not to comply with boycott requests. They merely discourage participation, but they do not prohibit it.

I find this subtle discrimination in our policies unconscionable. The Export Administration Act must be strengthened to outlaw participation in the boycotts and restrictive trade practices of foreign nations, whether they be secondary or tertiary boycotts, by forbidding companies to release discriminatory information.

In addition, I appeal to the committee to report legislation which would not only make it illegal to participate in a foreign boycott, but would also institute, as in the Koch-Scheuer bill, strong disclosure provisions and stiff penalties for those corporations found participating.

Since the temptation to go along with the boycott is in most cases economic rather than moral, there would be justice in legislating major disincentives for compliance. As in the Koch-Scheuer bill, which I cosponsored, increasing penalties to $10,000 and possible loss of a company's export license may be strong enough to prevent many American companies from participating in an illegal boycott. Yet, to insure that a corporation will not run the risk of these penalties to reap the economic benefits of discriminatory foreign trade, I suggest that additional provisions for major tax disincentives for participation be included in related legislation.

Under a bill introduced by Mr. Corman, which I have also cosponsored, a company knowingly found complying with the Arab boycott would lose its eligibility for foreign tax credits, tax credits on foreign source income and DISC benefits for 1 year.

Since companies would stand to lose thousands of tax exempt dollars, inclusion of this provision in appropriate legislation would be another major economic incentive not to discriminate against our allies, corporations, and citizens.

FIRM U.S. POLICY STANCE

Everyone in this room knows what happens, Mr. Chairman, when just one blackmail demand is given into. The blackmail is repeated again and then again, broadening in scope with each new demand.

Today, America and our corporations are being blackmailed by the Arab States to knuckle under to their "just one" demand concerning Israel. If we acquiesce today, tomorrow there will be new demands, demands to change U.S. policy in areas far different than our Mideast policy.

Autocracy knows no limits. If we knuckle under to the economic dictatorship of Mideast oil, we will invite Arab intimidation of every corporation, every religious and ethnic group, and every individual

in our country. The time to stop it is now and the way to do it is by strengthening the Export Administration Act.

After so many years of struggle to guarantee the civil liberties and equality of all American citizens, we cannot allow the battle to be lost through Arab intrusion into our internal affairs. The restrictive trade practices of the Arab nations affect our relations with other countries and affect this country when they pit American against American.

While we may not be able to change the foreign policies of other nations, we can change and strengthen our own laws to protect American citizens and dissuade them from discriminatory practices.

Mr. Chairman, that ends my formal statement, and I appreciate the opportunity to be here with the committee and will be pleased to answer any questions.

Chairman MORGAN. Thank you, Mr. Heinz. I just want to tell you that the preliminary report of Chairman Moss of the Government Operations Oversight Subcommittee, of which you are a member, was forwarded to this committee and made a permanent part of the record yesterday.

Mr. HEINZ. I am delighted. I am glad we are not still fighting the Commerce Department and that the reports are now available.

Chairman MORGAN. Mr. Buchanan.

Mr. BUCHANAN. Thank you for your excellent testimony. I have no questions.

Chairman MORGAN. Mr. Rosenthal.

Mr. ROSENTHAL. I commend our colleague for a very thoughtful, precise and important statement. I appreciate his restating most articulately a point I had tried to make, namely that we need a Federal law to resolve the dispute that exists between States due to the ability of major national companies to pick and choose among American ports. If Congress d[illegible]n't act, we will have a devastating situation.

In addition to the other reasons for congressional action, this is an underlying important one which requires immediate attention.

Mr. HEINZ. Let me say I thought your testimony was just about unsurpassed in any congressional testimony I have ever heard. It was truly excellent, as long as we are trading compliments.

Chairman MORGAN. Mr. Whalen.

Mr. WHALEN. I thank our colleague for his very fine statement. Since we are under the gun, Mr. Chairman, I have no questions.

Chairman MORGAN. Mr. Bingham.

Mr. BINGHAM. Thank you, Mr. Chairman.

I also would like to thank our colleague for an excellent statement. In view of the time pressure, I will ask no questions.

Chairman MORGAN. Mr. Winn.

Mr. WINN. Thank you, Mr. Chairman.

I appreciate the opportunity to hear Mr. Heinz' very fine testimony. At this stage of the hearing, I want to commend him for his outstanding leadership in this field on the Interstate and Foreign Commerce Committee.

Mr. HEINZ. Thank you.

Chairman MORGAN. Mr. Yatron.

Mr. YATRON. I too have no questions, and would like to say ditto to everything that has been said.

Chairman MORGAN. Mr. Lagomarsino.

Mr. LAGOMARSINO. No questions, and thank you for your fine statement.

Chairman MORGAN. Mr. Solarz.

Mr. SOLARZ. I don't want to add to this withering cross-examination of the statement so I, too, will compliment him on his statement and will ask no questions.

Chairman MORGAN. Thank you, Mr. Heinz.

Mr. HEINZ. Thank you, Mr. Chairman.

Chairman MORGAN. Our next witness is a distinguished member of the committee, Mr. Bingham.

With the permission of the committee, we will take a 5-minute recess to answer the quorum call and will return in 5 minutes to continue with Mr. Bingham.

[A brief recess was taken.]

Chairman MORGAN. The committee will come to order, please.

Our next witness is a distinguished member of this committee and a very active member of the committee, the Honorable Jonathan B. Bingham of the State of New York.

STATEMENT OF HON. JONATHAN B. BINGHAM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. BINGHAM. Since there are so many witnesses, I would like to suggest that my statement be included in the record at this point, together with some letters I have received from companies that favor the prohibition of the secondary boycott.

Chairman MORGAN. Without objection, it is so ordered.

U.S. MIDDLE EAST POLICY

Mr. BINGHAM. One reason I think I can be very brief is I think the committee is well acquainted with my views on this subject. I have been pressing for legislation to prohibit cooperation with the Arab boycott since 1965 when I was on the Banking and Currency Committee which at that time had jurisdiction over this matter.

The one point I would like to emphasize is that I certainly have no desire unduly to confront or embarrass the Arab nations. I supported the Sinai agreements and most of the initiatives our Secretary of State has taken to move toward peace in the Middle East.

I have publicly stated my admiration of the moderate behavior displayed by some Arab leaders and nations. The new and improved relationship we have developed with the Arab countries—a relationship under which we now sell them arms and, in the case of Egypt, provide economic assistance—should make it possible for us to establish a firm policy that would extract American business from the web of the Arab embargo without such action being considered a confrontation. We are not asking or requiring that they end their primary embargo of Israel, only that they now leave American firms out of it. If our new relationship with the Arab countries—from which they as well as we gain much—is sound, this shouldn't represent an unreasonable demand.

NEED TO OUTLAW BOYCOTT COMPLIANCE

Let me add only this, that I think there are many aspects of the Stevenson bill which are beneficial and which should be added to the simple prohibition of the secondary boycott which is contained in my proposed legislation.

However, I think I should say at this point that if we do not prohibit American firms from cooperating with the secondary boycott, I personally would not be in favor of those provisions of the Stevenson bill which provide for complete disclosure of intent to comply with boycott requests.

I believe this would be counterproductive in that it would perhaps bring about a more severe application of the boycott by Arab countries. Those countries would be embarrassed constantly by publication and release of the degree to which they today wink at the boycott and ignore, it. Therefore, unless the essential element of my bill is included—that is the prohibition of compliance by American firms with the secondary boycott—I do not believe that the Stevenson bill in its present form should be enacted into law.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Bingham with letters and statements for the record follow:]

PREPARED STATEMENT OF HON. JONATHAN B. BINGHAM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, the Arab nations joined in a direct economic embargo of Israel shortly after Israel's creation. That direct embargo is an unfortunate manifestation of the general hostility and tension that has persisted in the Middle East for thirty years. Whatever its impact upon Israel, a nation with which the United States has long and close ties, there is little we can do to end it. It can be eased and ultimately ended only in the context of a final and lasting peace in the Middle East. To the extent that we can facilitate and encourage the achievement of such a peace, we also contribute to the ending of the embargo.

In the early 1950's, however, Mr. Chairman, a new dimension was added to the Arab embargo of Israel—a dimension directly involving Americans. It was at that time that the Arabs, working through the embargo organization now headquartered in Syria, instituted a secondary embargo—an embargo of American firms and individuals doing business with or otherwise associated with Israel. In its most extreme form, that secondary embargo barred Arab nations and firms from doing business with particular individuals and firms that appeared on a "blacklist." Firms and individuals were added or removed from the "blacklist" for any of a variety of reasons. Adherence to the "blacklist" prohibitions has varied widely, depending upon the particular Arab country involved and the nature of the proposed business transaction.

In addition to the "blacklist", Arab firms and governments developed the practice of including a variety of discriminatory provisions in proposed contracts with American firms as a means of implementing the embargo.

While the direct embargo of Israel (as I have mentioned) is not amendable to counteraction by the United States, the extension of the embargo to American firms can and, in my judgment, should be firmly counteracted in the interests of American business, of Israel, and of all Americans who abhor racial, ethnic, and religious discrimination.

Mr. Chairman, I have introduced legislation in this Congress (H.R. 4967) which would simply prohibit Americans and American firms from complying in any way with the embargo, in any of the various forms in which it is imposed upon Americans. This proposal is not new. It has been considered from time to time since the early 1960's. I first introduced a similar measure, H.R. 4360, in the 90th Congress, soon after I was elected to the House, and have reintroduced it in each subsequent Congress.

I know well the arguments that have been made against this proposal, because in 1967-68 I served on the Banking and Currency Committee which then had jurisdiction over this matter. In addition, the Subcommittee on International Trade and Commerce which I have the honor to chair held four days of hearings last year on this proposal and discriminatory Arab pressure on U.S. business in general.

The opposition of the Administration to prohibition of compliance with the Arab embargo has been and continues to be that such action would be confrontational and would undermine American efforts to engineer peace in the Middle East. The Commerce and State Departments have argued that they would be more effective in removing embargo requirements from trade between Americans and Arabs through quiet appeals and diplomacy than through strict legal prohibitions which might trigger Arab retaliation.

With those arguments in mind, the Congress in 1965 enacted legislation [Export Administration Act, Sec. 3(5)] which stopped far short of total prohibition of compliance. That language states as a matter of policy the United States' opposition to economic embargoes, urges exporters not to comply with the terms of such embargoes, requires them to report to the Commerce Department any embargo requests which they may receive, and gives discretionary authority to the Secretary of Commerce to prohibit compliance by American firms and individuals.

Mr. Chairman, despite the enactment of that language by Congress to discourage compliance with the boycott, little if anything was done through quiet diplomacy to reduce the impact of the embargo. On the contrary, for years the Commerce Department routinely circulated Arab business tenders containing boycott requirements. The number of boycott requests received by companies steadily increased. Compliance with those requests (according to figures compiled by a Subcommittee of the House Interstate and Foreign Commerce Committee) climbed to over 90%. For a very long time—until intense Congressional pressure demanded it—the Executive branch's authority to prohibit some or all compliance with the embargo was dormant.

Some recent progress has been made on these issues. The Commerce Department no longer circulates business tenders containing boycott requirements, although there are many other ways businesses can find out about them. More significantly, compliance with particular types of boycott requests—namely those involving discrimination against an American or American firm on the basis of race, religion, color, sex, creed, or national origin—is now prohibited pursuant to Presidential order. Furthermore, commercial service oganizations—such as banks, insurance companies, and the like—are prohibited from such compliance as well as firms actually proposing to do business with an Arab country or firm.

These developments, Mr. Chairman, are all to the good. But they are inadequate in several respects. First, they are confusing and difficult to implement. My staff and I have met with many businessmen who find it difficult to make the distinction between a boycott request which is discriminatory on the basis of race, religion, creed or national origin, and a boycott request which is not discriminatory in that way. For example, is a boycott request that a firm certify that it does not do business with any "blacklisted" company discriminate on the basis of race, religion, creed, sex or national origin? In the first place, the "blacklist" is now secret, so it is difficult for the company to make a judgment. It is known, however, that individuals and companies have been included on the "blacklist" because they were prominent Jews or had Jewish officers. One could therefore consider the list itself discriminatory on the basis of religion, and that therefore, any compliance with a boycott request referring to the "blacklist" would be unlawful. The position of the Commerce Department, however, is that compliance with a boycott request referring to the "blacklist" is not prohibited. Whether it is or isn't, the fact remains that it is a difficult standard for companies to apply.

Current prohibitions are inadequate also because they touch only the tip of the iceberg and permit continuation of many reprehensible business practices. Boycott requests that directly refer to race, religion, color, creed, sex or national origin constitute a small minority of boycott requests. Just prohibiting compliance with them sanctions, in effect, other kinds of compliance. Present U.S. policies would seem to permit U.S. firms, for example, to refuse to do business with other U.S. firms on the basis of boycott requirements. While some government agencies interpret existing anti-trust laws as prohibiting such "refusals to deal" (tertiary boycott), the failure of the Export Administration

Act and current policies under that Act to include such a prohibition is both inconsistent with the anti-trust laws and an invitation to U.S. firms to discriminate against other U.S. firms if pressed to do so by the Arab boycott of Israel.

Mr. Chairman, I have no desire unduly to confront or embarrass the Arab nations. I supported the Sinai Agreement and most of the initiatives our Secretary of State has taken to move toward peace in the Middle East. I have publicly stated my admiration of the moderate behavior displayed by some Arab leaders and nations. The new and improved relationship we have developed with the Arab countries—a relationship under which we now sell them arms and, in the case of Egypt, provide economic assistance—should make it possible for us to establish a firm policy that would extract American business from the web of the Arab embargo without such action being considered a "confrontation." We are not asking or requiring that they end their primary embargo of Israel, only that they now leave American firms out of it. If our new relationship with the Arab countries (from which they as well as we gain much) is sound, this should not represent an unreasonable demand.

Present U.S. policies allow the Arabs to play U.S. firms off against each other, and put all firms in a constant crossfire of pressures from their domestic customers and investors should they comply with Arab boycott requests, and from the Arabs should they refuse to comply. I believe it should be the responsibility of the Federal government to set policy on this matter and to handle any pressures or repercussions that may result rather than leaving every American firm to fend for itself on every proposed contract with an Arab customer.

My bill, Mr. Chairman, would do just that. It would prohibit compliance of any kind with Arab embargo requests. It would apply to tertiary as well as secondary effects of the embargo. It would put all American companies on an equal footing with respect to doing business with the Arabs. It would eliminate the need to distinguish between discrimination on the basis of race, religion, creed, sex or national origin, and more general kinds of discrimination.

Such a simple, straight-forward prohibition is in the best interests not just of Israel, but also, in my judgement, of American business. If the Arab boycott succeeds in dictating to American business that it cannot do business with Israel, what is to prevent any other country in the world from making its own political demands on American business practices. In the case of the Arab boycott, the problems and losses posed for American business are not particularly severe, since Israel represents a rather small market and most American firms have little occasion to do business there regardless of the embargo. Future embargoes encouraged by the success of the Arab embargo, however, could be much more costly and uncomfortable to American business.

The need is clear. I urge this Committee at the appropriate time to support a simple prohibition on compliance by American firms with all manifestations of the Arab embargo of Israel—to support such a provision not in a spirit of hostility or confrontation with the Arab nations, but in defense of the freedom of American business and of our national devotion to non-discrimination.

Since the Subcommittee on International Trade and Commerce concluded its hearings last December on the involvement of American companies in the Arab economic embargo of Israel, Mr. Chairman, I have received several letters from American companies expressing their opposition to the embargo and their support for reasonable legislation that would relieve pressures on them to comply. I would like, with the consent of the Committee, to submit these letters for inclusion in the hearing Record.

LETTERS FROM PAUL L. PARKER, SENIOR VICE PRESIDENT, GENERAL MILLS, INC., TO CONGRESSMAN BINGHAM

GENERAL MILLS, INC.,
Minneapolis, Minn., June 11, 1976.

Representative JONATHAN B. BINGHAM,
Chairman, Subcommittee on International Trade and Commerce, Committee on International Relations, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN: We appreciate greatly your letter inviting us to testify before the Committee on International Relations Subcommittee on International Trade and Commerce, in connection with the so-called Arab-Israeli boycott. The gist of our corporate decision is included in the attached.

We have begun preparation of a statement that would be appropriate for your hearings but are still in the process of drafting this statement and meeting deadline difficulties. We are uncertain at this time whether we will be able to appear as a witness, but we will, in any event, submit an appropriate statement for the record, forthrightly stating our position.

We do think it important that we voice our feelings for policy changes which will avoid undue restrictions on international commerce, and we hope that our statement will make our position completely clear.

Sincerely yours,

PAUL L. PARKER

PRESS RELEASE OF GENERAL MILLS, INC.

APRIL 5, 1976.

Officials of the Anti-Defamation League of B'nai B'rith and General Mills met Friday, April 2, in New York and clarified the General Mills policy with respect to overseas trade. They noted that General Mills has been a long-time proponent of free trade, selling and/or licensing products in both Israel and Arab nations.

Seymour Graubard, National Chairman of the Anti-Defamation League of B'nai B'rith, stated his conclusion that General Mills has been acting responsibly and in good faith in its trading practices with Israel. General Mills and the Anti-Defamation League of B'nai B'rith agreed, however, that there is a pressing need to enact Federal legislation which would prohibit all foreign-imposed trade restrictions. E. Robert Kinney, President of General Mills, said that the company has promised to reinforce its efforts to secure the passage of this legislation now before Congress.

In a letter to the ADL, Mr. Kinney said, "General Mills is pledged to the following:

"1. To initiate and to reinforce our support of legislation now before Congress which will eliminate the restrictive certifications now permitted by law;

"2. To continue to direct negotiations with Arab buyers in an effort to eliminate completely any certification requirements now imposed. It should be noted that in the past sixty days, we have made substantial progress in this area."

Mr. Kinney expressed appreciation of the League's findings, adding: "We deplore any practices or policies which restrict or impact negatively on international commerce. We believe strongly in free trade among nations, and we urge all Americans to join in seeking speedy legislative enactment of measures which will achieve this goal."

STATEMENT OF PAUL L. PARKER, EXECUTIVE VICE PRESIDENT, CHIEF ADMINISTRATIVE OFFICER, AND GOVERNMENT RELATIONS OFFICER, GENERAL MILLS, INC.

Mr. Chairman, General Mills, welcomes this opportunity to voice its strong expression of support for policy changes concerning certain discriminatory aspects presently found in the Arab-Israeli boycott. General Mills subscribes to all efforts which seek to avoid the fettering of international commerce and any restrictive practices which are based on religious, ethnic, or racial grounds. We encourage other concerned American businesses to add expressions of principle to this examination of trade policy.

Discrimination premised on religious, racial or ethnic factors has no place in foreign commerce of our country. No country should be allowed to impose such discrimination on us. Matters of principle inherent in such practices must be safeguarded.

Since 1948, when Israel emerged as a free nation, the United States has been a strong supporter of its independence. The basic premise of freedom that initiated the formation of Israel is one cherished by this country. Israel symbolizes freedom—freedom for its citizens from centuries of prejudice and persecution. The current attempt at the economic strangulation of Israel is neither American public policy nor the wish of the American people.

Current law and policy, however, is not strong enough to fully counteract the forces of prejudices.

The Export Administration Act of 1969 opposes restrictive trade practices and encourages American firms not to be intimated or to comply with them. That is a weak disclaimer. Exhortations are not strong enough. Such declarations as

"opposes" and mere urgings such as "requests"[1] leave too much room for violations of the spirit and intent of the basic legal objectives of that statute. The Export Administration Act has fallen short of its intended goals. It fails to uphold our declared principles and to sanction them by law.

Discrimination premised on religious, ethnic, or racial grounds—whether blatant or achieved deviously—has been barred by the United States Constitution as well as by numerous civil rights laws. The history and development of civil rights assurances have been tortuous and slow. Principles gained are not to be easily compromised. Such expressions of equality are a proud part of our heritage and must be defended by persons of principle. Intrusions of expediency, no matter how logical sounding, must be carefully measured. Patchquilts of exceptions and diversion must be avoided. By the same measure, it would be most helpful if the countries involved would repudiate—without equivocation—any and all suggestions of religous intolerance or discrimination.

Restrictions on free trade are contrary to the spirit of long-term national policies. Yet the Export Administration Act, while not sanctioning discrimination or restrictive trade practices, fails to prohibit them absolutely. Pending amendments to the Export Administration Act deserve the utmost serious consideration by this Committee of Congress. Amendments to which we address ourselves give substance to ideas put forth but not fully secured by current laws. We speak for the full measure of assuring basic civil rights, not for half-way compromises, but for avoidance of loose and ambiguous draftsmanship.

In a world that is growing smaller every day, it is vital that we seek to maintain open channels through which understanding may develop. One of the most important channels of communication we have is trade itself. Closing off that channel on the whim of certain nations could have devastating results.

Of course, all nations have the option to engage in primary boycotts when pursuing national goals of declared international hostilities. Boycotts are another means of waging war. At the point those boycotts, or economic sanctions, become secondary and impinge upon the rights of other nations to conduct free trade, they lose their original validity. Vigorous opposition to their insidious spread is imperative—no matter what short-term commercial expediency may indicate. Instead of doing little or nothing a time comes when standing up for principle is indicated.

Sentiments against further restrictions on free trade, and particularly devices of a patently discriminatory character run contrary to the long-term policies and interests inherent in the American tradition. Strong expressions of sentiment developing these viewpoints are being expounded upon daily by thoughtful persons across the length and breadth of this country. A clear indicator of current sentiment, and an important molder of public opinion, is the commentary printed in the editorial sections of this country's leading newspapers. The number of such editorials and statements of opinion is legion. The important point is that many of the most influential newspapers in the country have resolutely stated an opinion against the principles of discrimination inherent in the current power plays aimed at hobbling the free flow of international commerce. We have in our files a large sampling of such editorial support from 63 newspapers. Unfortunately, copyrights restrict submitting them for the record; therefore, we are forwarding copies to the Committee for internal use and review by the Committee members.

The time has come for the United States to stand up and be counted in championing the cause of freedom. Free trade is inexorably linked with human freedom. When one is constricted, so too does the other diminish.

This great nation is in a position to deal effectively with this spreading problem, if it cares to. As the largest supplier of the world's goods and services, America is in a unique position to set the tone of international trade. Shall we permit ourselves to be guided by restrictive and discriminatory trade practices contrary to basic American principles? Shall we deny our own historical legacy? General Mills, for one, thinks, most emphatically, not. E. Robert Kinney, presi-

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[1] Export Administration Act of 1969, Sections 3(5)(A) and 3(5)(B) states that the policy of the U.S. is:

(A) to *oppose* restrictive policies or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, and (B) to *encourage* and *request* domestic concerns * * * to refuse to take any action * * * which has the effect of furthering or supporting * * * (such restrictive practices or boycotts). (Emphasis added).

dent and Chief Executive Officer of General Mills, Inc., addressing these issues as follows:

> We deplore any practices or policies which restrict or impact negatively on international commerce. We believe strongly in free trade among nations, and we urge all Americans to join in seeking speedy legislative enactment of measures which will achieve this goal.

President Ford, on February 26, 1976, spoke out strongly against trade discrimination premised on religious or ethnic grounds, stating:

> . . . (such practices have) no place in the free practice of commerce as it has flourished in this country and in the world in the last 30 years.

We, at General Mills, Inc., earnestly urge your support and affirmative action on the pending amendments to the Export Administration Act. We endorse all efforts directed towards a peaceful settlement of the problem, for a peaceful settlement will be the only lasting solution. In the interim, the strongest possible expression of statutory finality denying patently discriminatory second-order (and beyond) boycotts is in order. A nation so fundamentally opposed to discrimination cannot endure the human and the economic waste of boycott or reprisal inspired by discrimination.

LETTER FROM WILLIAM J. POWELL, SENIOR VICE PRESIDENT, THE PILLSBURY CO., TO CONGRESSMAN BINGHAM

THE PILLSBURY CO.,
Minneapolis, Minn., June 3, 1976.

HON. JONATHAN B. BINGHAM,
Chairman, Subcommittee on International Trade and Commerce, Rayburn House Office Building, Washington, D.C.

DEAR MR. BINGHAM: This refers to your letter of May 10 concerning upcoming hearings on the Export Administration Act before the Committee on International Relations. You state that during such hearings the Committee will consider various proposals dealing with the Arab embargo, and invite our views on this matter.

As we have stated on frequent occasions The Pillsbury Company has been a constant advocate and supporter of free trade, offering its products for sale and export to any country with which United States laws do not prohibit trade. Hence, we are opposed to trade restrictions which have their basis in political or other non-trade related considerations. We firmly believe such restrictions should be eliminated.

We believe that trade restrictions which require as a condition of our doing business with a particular country that we refrain from doing business with another country, or with someone who is engaged in doing business with such other country, are unjustified and unacceptable. Likewise we reject any trade restrictions which would require us to refrain from trading with a company whose ownership, management or employees are of a particular race or religion. How best to discourage such agreements seems to us to lie clearly within the domain of the legislature, which has various sanctions available to it.

We are concerned that the views of the administration, and particularly the Treasury and State Departments, be listened to carefully in the consideration of any new legislation on the subject. The national interest in preserving the U.S. position as a mediator in the Mideast to achieve a peaceful settlement, which would incidentally end the objected-to Arab requirements, must not be frustrated by unnecessary or unreasonable legislation. Neither by disdirected legislation should we put our economy in a position where we see the Arab boycott continued and the Arab countries simply turning to non-U.S. sources of supply.

We would appreciate your accepting this expression of our views as part of the record of the hearings.

Yours very truly,

WILLIAM J. POWELL.

Chairman MORGAN. Thank you, Mr. Bingham.

As chairman of this committee, I have long known your interest in this subject, and of course I am sure you will be very active when this committee considers the markup of this legislation.

Mr. Lagomarsino.

Mr. LAGOMARSINO. I have no questions, but I would like to commend the gentleman for the statement he submitted for the record.

Chairman MORGAN. Mr. Rosenthal.

IMPACT OF OUTLAWING BOYCOTT COMPLIANCE

Mr. ROSENTHAL. I have no questions, Mr. Chairman.

I want to commend our distinguished colleague for his leadership in this area dating back to 1965.

I agree with him that whatever the committee does, it must deal with the secondary boycott issue. Once we do that then we can synthesize the Stevenson approach into an amendment to the act. We must also consider the repercussions of such an amendment.

People have fears—sometimes you have nothing to fear but fear itself—but these are not wholly unfounded. What is your prognosis of what would happen, assuming we took the toughest line possible?

Mr. BINGHAM. I agree with what you said in your testimony. I think the Arab States simply cannot do without the business they do with American firms and that, if the policy of American firms is made uniform in noncompliance, they will have to accept that.

The problem now is that American firms are whipsawed, some comply, others don't. There is this competive aspect that enters in but, if we can simply put these firms in the position of saying to the Arab nations, the Arab businesses, we now no longer can cooperate with the boycott, the policy of the United States which was declared to be opposed to the boycott 10 years ago has now been in effect put into law, and we have no choice.

I think it's unrealistic and unnecessary to fear that faced with that proposition the Arab countries would cutoff their economic deals with the United States.

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Chairman MORGAN. Mr. Solarz.

Mr. SOLARZ. Thank you, Mr. Chairman.

I would like to register an objection to these proceedings, because by the time you reach me in the questioning, even if I don't want to pay tribute to the witness, I am obligated to, by virtue of what has been said previously.

In this instance, however, I can say quite sincerely I think the distinguished gentleman from New York is not only one of the outstanding members of our committee but of the Congress as a whole.

I have a special debt of gratitude since he was the one that advised me that serving on this committee would be a worthwhile experience. It was advice for which I have been grateful ever since.

I would like to ask one or two questions.

TERTIARY BOYCOTT

On page 2 of your testimony you indicate that American firms have been requested to certify that they don't do business with any blacklisted company. That would seem to me to contradict the testimony of Secretary Parsky yesterday in response to some questions I—and

which I think also others—asked to the effect that so far as the administration was concerned, the only request made by the Arab countries participating in the boycott was that American firms not do business with Israel. There were no efforts to boycott companies that did business with other American firms that were doing business with Israel.

You have held hearings on this subject. Is it your belief, or is there evidence available, which would indicate that in point of fact this is a widespread practice?

Mr. BINGHAM. Let me submit backup material for that for the record, if I may.[1]

Mr. SOLARZ. I think that would be helpful.

CONTRADICTION BETWEEN PROHIBITING BOYCOTT COMPLIANCE AND DISCLOSURE

The other question I had goes to what seems to me to be a potential contradiction between the flatout provision against compliance with the boycott contained in your proposal on the one hand and the disclosure requirements contained in the Stevenson amendment and Scheuer-Koch proposal on the other.

If the two were combined, as some have suggested, what sense does it make to ask someone to disclose whether or not they are complying with the boycott request when the very same legislation presumably would prohibit such compliance in the first place?

Can anyone realistically be expected to disclose they are violating the law?

Mr. BINGHAM. I think the gentleman raises a very good question and one we ought to consider. There might even be objections to it on the grounds it was unconstitutional in the sense it was self-incriminating.

What I had meant to say before was that the objections I have to the disclosure provisions, those particular objections do not apply if we prohibit the secondary boycott, but there may be other problems that we should consider.

Mr. SOLARZ. I thank the gentleman for his observation. I think this is something the committee ought to take a very close look at. I am not opposed in principal, I think, to disclosure, but I think we have to ask some hard questions about the purposes the disclosure requirement would serve if they are coupled with the flatout prohibition contained in your own recommendations.

Mr. BINGHAM. May I, at this point refer to the letter from Chairman John Moss to Chairman Thomas Morgan, dated May 6, 1976, with regard to the gentleman's first question. Among the clauses that have been found to be common in the various documents that are required are, and I read from page 4 of his letter:

> * * * clauses referring to being blacklisted by the boycott office for doing business with a boycotted firm. This clause typically includes requests to certify that the exporter is not blacklisted or is not doing business with a blacklisted company.

Mr. SOLARZ. And you indicated a firm has problems making that certification when a blacklist was not available and it didn't know who was on the list.

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[1] See letter Hon. John E. Moss on p. 71.

PRECEDENTS FOR SECONDARY AND TERTIARY BOYCOTTS

One final question: A number of witnesses have indicated that boycotts as a matter of international law are not unprecedented. We have even, from time to time, engaged in them ourselves. Are you aware of any precedents for the kind of secondary, and to some extent tertiary, boycotts which the Arab countries are utilizing vis-a-vis Israel that other countries have engaged in, perhaps including our own?

Mr. BINGHAM. Essentially, no. I think we must bear in mind the type of boycott we have engaged in so far as trade is concerned has been the primary boycott with occasional details that might be construed as suggestive of a secondary boycott.

We have, in connection with aid programs, secondary provisions, but that is very different from a trade boycott.

Mr. SOLARZ. Actually, now that I think about it, I know the gentleman conducted some hearings on the embargo on Cuba. I have a recollection that we once prohibited the purchase of jute from Bangladesh on the grounds that they were trading with Cuba, an action which seemed to be a rather petty manifestation of our own embargo on Cuba.

Mr. BINGHAM. I think the gentleman is mistaken in that. That would refer to the prohibitions of aid to countries, and it may have been in that connection that there was a threatened cutoff.

We also had a prohibition against aid to countries whose ships were stopping in Cuban ports and Vietnamese ports, but those had to do with aid, not trade.

Mr. SOLARZ. So that is a 1¼ boycott, somewhere between primary and secondary boycott. I didn't think it reflected much credit on us.

I thank the witness for his testimony.

Chairman MORGAN. Thank you, Mr. Bingham.

Our next witness is Mr. Robert Drinan from the great State of Massachusetts.

We welcome you to the committee today Mr. Drinan.

Mr. Drinan is a distinguished member of the House Judiciary Committee.

You may proceed, sir.

STATEMENT OF HON. ROBERT F. DRINAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. DRINAN. I will submit my statement for the record and try to make points not made earlier this morning.

EXISTING FEDERAL POWERS

I want first to say I have learned a great deal about this enormous problem from the hearings conducted by the subcommittee chaired by Congressman Rosenthal in the Government Operations Committee.

As everyone knows, the Secretary of Commerce freely admits that under section 4(B)(1) of the Export Administration Act, he is empowered to issue——

Chairman MORGAN. Just a minute. I wish our guests would take their seats, please. As a matter of courtesy, if any additional statements

are to be obtained. I would hope you would go up one by one instead of all at one time.

You may proceed.

Mr. DRINAN. It is very clear the Secretary of Commerce is empowered to issue regulations prohibiting compliance with the boycott demands, but the Secretary refuses to do so.

The President, if he so desired, could take numerous other actions to fight the boycott under existing law, such as the denial of trade privileges to countries which blacklist American firms, or the issuance of cease and desist orders to banks which process letters of credit containing boycott certification requirements.

But the administration refuses to do so.

I cannot exaggerate, Mr. Chairman, the enormous importance of the boycott that continues to grow in size and strength. The tremendous expansion of American trade with Middle Eastern nations has transformed the boycott from a minor nuisance into a cancer within the American economy.

I won't repeat these statistics gathered by Congressman John Moss, everyone on this committee knows how frightening they are.

DRINAN ANTIBOYCOTT BILL

It is apparent, Mr. Chairman, that the only effective remedy for this intolerable situation lies in the enactment of appropriate legislation to carry out the policies set forth 11 years ago in the Export Administration Act.

Let me review the legislation before this committee. You have the good fortune to have three bills, all of which have merit, and I know that a combination of them will be forthcoming in due course.

I have filed the Foreign Discriminatory Commercial Practices Act, H.R. 5913, cosponsored by 28 Members of the House. This addresses the boycott in a slightly different fashion than the other bills before you.

Like the Scheuer-Koch bill, my bill would prohibit companies from providing information on the religious or ethnic character of their employees, stockholders, and directors.

Both bills also prohibit firms from refusing to do business with another firm on the basis of the boycott.

My bill, however, Mr. Chairman, goes one step further than the Kock-Scheuer bill in prohibiting a firm from taking other actions to support the boycott. These include: (1) furnishing information on its business with a boycotted country; (2) furnishing information on its business with other firms which do business with a boycotted country; (3) furnishing information on its investments in a boycotted country; and, (4) refusing to do business with a boycotted country or its citizens in response to a boycott demand.

All of these actions would constitute participation by American companies in the Arab boycott, but they are not specifically prohibited in the bill filed by Congressmen Scheuer and Koch.

My reading of the bill filed by your distinguished colleague, Congressman Bingham, is that it would encompass all the actions noted above within its general prohibition on actions, "which have the effect of furthering or supporting restrictive trade practices of boycotts."

Since the various activities are not specified, however, interpretation of the proposed amendment would be up to the Commerce Department and ultimately to the courts.

In my judgment it would be preferable for the Congress to spell out precisely the activities it intends to outlaw and that I have provided for in the bill H.R. 5913.

Several other provisions, Mr. Chairman, of my bill, not contained in either of the other bills, merit in my judgment the attention of the committee.

My bill does not require public disclosure as noted in a colloquy a few moments ago that does raise problems involving the fifth amendment.

Second: My bill requires the Secretary of Commerce to suspend the exporting privileges of any company found to be engaging in any of the prohibited acts. Increasing the civil penalty from $1,000 to $10,000, as provided in the Scheuer-Koch bill, is certainly a good idea. Such a fine, however, would have little effect on most of the huge multinational corporations doing business with the Middle East.

The threat of stronger punitive action is essential as a detergent to illegal acts.

My bill requires a full exchange of information and cooperation between the Department of Commerce and the Equal Employment Opportunity Commission, EEOC, so that the resources of these two agencies can jointly be brought to bear on the investigation of complaints and prosecution of violators.

This exchange of information should help all of the agencies of the Federal Government to perform their duties more efficiently and without duplication.

In conclusion, it is clear that new legislation is needed to combat the Arab boycott within our own borders. The Export Administration Act, which already contains a definitive statement of American policy on this subject, is the most appropriate vehicle for such legislation.

I urge the committee, as it considers the proposed extension of the act, to adopt amendments to combat the boycott. While I believe that the most effective approach is embodied in the bill I filed, this committee has the good fortune of having before it three good bills on this topic. I am hopeful and certain that out of the deliberations of your committee there will emerge legislation to excise the boycott cancer from our economy and to restore to American commerce in some degree those principles of freedom and nondiscrimination which we espouse as a nation.

Thank you.

[The prepared statement of Mr. Drinan follows:]

PREPARED STATEMENT OF HON. ROBERT F. DRINAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. Chairman, I am pleased to appear in support of proposed legislation to effectuate the anti-boycott policy contained in the Export Administration Act by prohibiting American complicity in this insidious form of economic blackmail. Our government's stated opposition to the boycott of Israel conducted by the Arab League is unquestioned, but the Administration has consistently refused to take the actions necessary to prevent American firms from complying with discriminatory boycott demands. The Secretary of Commerce freely admits that under Section 4 (b) (1) of the Export Administration Act, he is empowered to issue regulations prohibiting compliance with boycott demands, but he refuses to do so. The President, if he so desired, could take numerous other actions to fight the boycott under existing law such as the denial of trade privileges to

countries which blacklist American firms or the issuance of cease and desist orders to banks which process letters of credit containing boycott certification requirements. But he refuses to do so.

In the midst of this Executive branch paralysis, the boycott continues to grow in size and strength. The tremendous expansion of American trade with Middle Eastern nations has transformed the boycott from a minor nuisance into a festering cancer within the American economy. According to a report issued recently by the Interstate and Foreign Commerce Subcommittee on Oversight and Investigations, 637 American firms reported receiving requests for compliance with boycott demands during the first 11 months of 1975. These demands were made in conjunction with 4,279 transactions valued at more than $780 million. After surveying reports submitted by these firms during the period October 1–December 5, 1975, the Subcommittee reported that companies complied with boycott demands in 90.6 percent of these cases encompassing 96.4 percent of total sales dollars. Thus, in the absence of sanctions imposed by the Administration, it is apparent that the vast majority of firms doing business in the Middle East have succumbed to economic blackmail and are participating actively in the boycott of our ally, Israel.

The impact of the boycott on the Israeli economy is readily apparent. Numerous American firms are also adversely affected by domestic compliance with boycott demands. More than 1,500 American companies appearing on the Arab blackist are unable to do business with Arab countries or with other American firms which have agreed to comply with the regulations of the Arab Boycott Office. Such regulations prohibit doing business with a blacklisted firm. Thus, American companies are presently faced with the choice of succumbing to Arab demands or suffering a loss of business to other American firms. A uniform prohibition on compliance with boycott demands would end this dilemma and place all firms on an equal competitive standing in seeking business in the Middle East and elsewhere.

It is apparent that the only effective remedy of this intolerable situation lies in the enactment of appropriate legislation to carry out the policy set forth in the Export Administration Act. As you know, the Senate Committee on Banking, Housing and Urban Affairs has reported out the Foreign Boycotts Act, title I of S. 953. That bill has been introduced in the House as H.R. 11463 by Congressmen Scheuer and Koch. A second important anti-boycott bill, H.R. 4967, has been introduced by Congressman Bingham. The enactment of either of these bills would, in my judgment, be a major step toward reducing the impact of the Arab boycott within the United States.

I have filed the Foreign Discriminatory Commercial Practices Act (H.R. 5913), cosponsored by 28 Members of the House, which addresses the boycott in a slightly different fashion. Like H.R. 11463, my bill would prohibit companies from providing information on the religion or ethnic character of their employees, stockholders, and directors. Both bills also prohibit firms from refusing to do business with another firm on the basis of the boycott.

H.R. 5913 goes one step further than the Koch-Scheuer bill in prohibiting a firm from taking other actions to support the boycott including: (1) furnishing information on its business with a boycotted country; (2) furnishing information on its business with other firms which do business with a boycotted country; (3) furnishing information on its investments in a boycotted country; and (4) refusing to do business with a boycotted country or its citizens in response to a boycott demand.

All of these actions would constitute participation by American companies in the Arab Boycott, yet none are prohibited by H.R. 11463.

My reading of H.R. 4967, introduced by Congressman Bingham, is that it would encompass all of the actions listed above within its general prohibition on actions "which have the effect of furthering or supporting restrictive trade practices or boycotts." Since the various prohibited activities are not specified, however, interpretation of the proposed amendment would be up to the Commerce Department and ultimately to the courts. I believe it would be preferable for the Congress to spell out the activities it intends to outlaw as precisely as possible as provided for in H.R. 5913.

Several other provisions of H.R. 5913, not contained in either of the other bills, merit the attention of the Committee. First, the bill requires the Secretary of Commerce to suspend the exporting privileges of any company found to be engaging in any of the prohibited acts. While raising the civil penalty from $1,000 to $10,000, as provided for in H.R. 11463, is a good idea, such a fine will have little effect on most of the huge multinational corporations doing business

in the Middle East. The threat of stronger punitive action is essential as a deterrent to illegal acts.

Second, the bill requires a full exchange of information and cooperation between the Department of Commerce and the Equal Employment Opportunity Commission so that their resources can be jointly brought to bear in the investigation of complaints and prosecution of violators. This exchange of information should help both of these agencies to perform their duties more efficiently and without duplication.

In conclusion, Mr. Chairman, it is clear that new legislation is needed to combat the Arab boycott within our own borders. The Export Administration Act, which already contains a definitive statement of American policy on this subject, is the most appropriate vehicle for such legislation. I urge the Committee, as it considers the proposed extension of the Act, to adopt amendments to combat the boycott. While I believe that the most effective approach is embodied in H.R. 5913, the Committee has the good fortune of having before it three good bills on this subject. I am hopeful that out of those bills and the deliberations of your Committee will emerge legislation to excise the boycott cancer from our economy and restore to American commerce in some degree those principles of freedom and nondiscrimination which we espouse as a nation.

Chairman MORGAN. Thank you, Mr. Drinan.

Mr. Lagomarsino.

Mr. LAGOMARSINO. No questions.

Chairman MORGAN. Mr. Rosenthal.

Mr. ROSENTHAL. No questions, Mr. Chairman.

I want to commend our colleague for his long commitment to this subject.

Chairman MORGAN. Mr. Bingham.

Mr. BINGHAM. Thank you, Mr. Chairman.

APPLICATION OF U.S. LAW TO U.S. FOREIGN SUBSIDIARIES

I, too, would like to commend our colleague for his work in this field. I know of his deep interest.

I have one question. I know in the gentleman's bill, H.R. 5913, he provides, "It shall be unlawful for any U.S. exporter or any of its subsidiaries or affiliates * * *," and then he lists the prohibited practices.

My question is this: Do you feel that through American law the acts of a foreign company which is owned in part or in whole by an American company can be prohibited?

Mr. DRINAN. I would think, Mr. Bingham, we probably have to insert there "a knowing act" by which they aid and abet the boycott in question.

You raise a good question, and I think that without bringing in the foreign counterpart or subsidiary you could vitiate the act.

At the same time they do have rights not to be blanketed in without their knowledge or consent.

Mr. BINGHAM. I am not quite sure what the gentleman is saying. Is he saying that the prohibition would have to lie in the parent company being involved in some way in the transaction directly?

Mr. DRINAN. If I may go back directly, what precise page is that on?

Mr. BINGHAM. Page 3, line 8.

Mr. DRINAN [reading].

It shall be unlawful for any United States exporter or any of its subsidiaries or affiliates to engage in the following acts.

Mr. BINGHAM. My question is, assuming the subsidiary or affiliate is a foreign corporation, how can we reach its actions under our criminal statutes?

Mr. DRINAN. It would depend on the corporation law that controls the nature of that relationship by which this particular foreign subsidiary, bank, or corporation is, in fact, related to the U.S. corporation. Insofar as it is dependent, insofar as it has some connection with American law, to that extent the American corporation under American law could render unlawful any of the acts proscribed.

Mr. BINGHAM. I think it's an important question. I commend the gentleman for introducing this thought which I don't think appears in any of the other bills.

Without this, it might provide quite a loophole, but at the same time I think, presents us with some technical difficulties.

Mr. DRINAN. I agree with the gentleman. I learned more of the ramifications of this question in the work of the subcommittee of Mr. Rosenthal. It was noted there that banks have foreign affiliates or subsidiaries, and they were saying they were in no way under American control.

Those banks are growing in number in the Arab nations while diminishing very drastically in Israel.

Mr. BINGHAM. I thank the gentleman.

Chairman MORGAN. Mr. Solarz.

Mr. SOLARZ. Thank you, Mr. Chairman.

I think it can be said the witness has been one of the fathers of the antiboycott movement in the House of Representatives and has been an inspiration to all of us concerned about events in that area of the world.

I have a few questions.

CONTRADICTION BETWEEN PROHIBITING BOYCOTT COMPLIANCE AND DISCLOSURE

First, you briefly touched in your testimony on the potential problem I had raised a little bit earlier concerning the potential conflict between the prohibition on participation in the boycott on the one hand and disclosure requirements on the other. I wonder as an attorney and member of the Judiciary Committee, could you elaborate on that, particularly in terms of whether such dual requirement might or might not be unconstitutional?

Mr. DRINAN. The gentleman raised a very good question, and it seems to me if we are going to prohibit all these actions, then the section of the Export Administration Act regulations which requires the reporting of these actions by American corporations is obsolete.

One could, nonetheless, state that these corporations must still report to the Commerce Committee any proposed boycotts or any boycott requests that they receive from the foreign nation but they could not, in my judgment, be required to state that they had in fact accepted them in whole or in part because, if this were prohibited even under civil penalties, then it would be in violation of the letter or the spirit of the fifth amendment.

I am inclined to think we have to rethink the whole purpose of the Export Administration Act.

That was a bold venture 11 years ago by the Congress of the United States. They foresaw at that time that the Arab economic boycott was carrying out an economic warfare against Israel that was insidious and very harmful to Israel and to the United States and they did not want American corporations to participate.

Obviously that act was a compromise which has proven to be relatively ineffective. Now if we want to prohibit these acts, as I think the committee does, as I do, then I think we have to rethink that legislation and go back to square one.

Mr. SOLARZ. You don't think there would be a constitutional problem with requiring disclosure of requests for information but that there might be with respect to the disclosure of whether one actually participated?

Mr. DRINAN. On the contrary, I think that, if an American agent or if an alien representing a foreign corporation is soliciting an American corporation to do something that is illegal or even criminal, then there is some duty of reporting. In this particular act, soliciting is a crime.

PROOF OF BOYCOTT COMPLIANCE

Mr. SOLARZ. I wonder if you could comment on the problems of proof that would be involved in establishing that an American firm had actually complied with the boycott, in violation of this proposed law, given the very real possibility that a firm may not be doing business with Israel for its own reasons, completely unrelated to the boycott?

Mr. DRINAN. The problems of proof are, indeed, difficult. I am familiar with an architectural firm charged under a State law related to this matter and the firm said they had never been asked to do any business in Israel, that if they were asked, they would consider it, but that they continued to do business with the Arab nations exclusively.

However, as I think as in all laws, these would be a tiny minority of the cases. The vast number of American corporations would, in fact, comply. It is my conviction that American corporations desire protection from the Arab economic boycott and that they would welcome a law that applies universally across-the-board that would give them all equal protection so that they would not feel that, if they don't submit to the economic boycott, one of their competitors would get the business.

Mr. SOLARZ. I am just trying to figure out how this would work in practice. We presume the boycott would not go out of existence. The Arab countries would still try to operate the boycott even with this legislation. In that case, wouldn't the corporations, in the Arab world with which they do business, say they are prohibited from signing contracts or statements stating that they won't do business with Israel—but sort of watch their annual financial report, and the Arab countries will not be unhappy. Then, if anybody from the Justice Department or Commerce Department asked them whether they have complied with the boycott request, they say, no, absolutely not.

Then if asked why they don't do business with Israel, they can say, well, it is not logistically possible, or profitable.

Isn't it likely that is the kind of scenario that will develop? And how does this legislation deal with that situation?

Mr. DRINAN. I don't think you can prevent that by legislation. That, after all, is a matter of proof and the enforcement of the law. We outlaw certain specific actions and a pattern of conduct. After that, it is up to the law enforcement agencies.

However, if I may, there is a deeper dimension to this because in the hearings conducted by Mr. Rosenthal it came out that African and Asian nations are participating in this boycott as well. By sympathy

with or intimidation by the Arab nations, these countries more and more in the commercial and banking world are following the economic boycott against Israel and insisting that American corporations do so as well.

If we include only the Arab economic boycott, members of the Fourth World nations could aid and abet the Arab nations by using their name and their companies as a coverup.

DEGREE OF DETAIL OF LEGISLATION

Mr. SOLARZ. One final question, Mr. Chairman.

With respect to your observations concerning the desirability of spelling out in precise terms what kinds of participation in the boycott would be prohibited, as a practical matter do you foresee any difficulty in including that language in the bill itself as compared to including language to that effect in the committee report?

Mr. DRINAN. Frankly, I would be inclined to put it in the bill since the enforcement activities and the aptitude for enforcement on the part of the Commerce Department have not been very effective. Therefore, we should not allow them a loophole.

It is open knowledge that the Commerce Department for many, many years was, in fact, aiding and abetting the Arab economic boycott by sending out propaganda from Saudi Arabia, Kuwait, and other nations, to American corporations at taxpayers' expense.

If they have that tendency, they would be inclined to [illegible] that the specifics I have in my bill would not be forbidden if we give them that opportunity.

Even if you do follow the technique of my bill, you should nonetheless have a clause blanketing-in all other types of activities of that kind. I have such a clause in my bill.

Mr. SOLARZ. Mr. Chairman, I wonder if it would be in order to ask if some counsel available to the committee, presumably on the staff, but maybe in the Law Division of the Library of Congress, could perhaps give the committee a legal judgment about the constitutionality of including disclosure requirements in an amendment which also prohibits participation?

Mr. ROSENTHAL. There is distinguished counsel sitting in the audience waiting to testify. They may have dealt with this issue and be able to make a valuable contribution.

Chairman MORGAN. Thank you, Mr. Drinan.

Our next witness is a Member of Congress from the State of New York.

STATEMENT OF HON. BELLA S. ABZUG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Chairman MORGAN. It is an honor and privilege to welcome you back to this committee. Since you have been in Congress, you have testified in this room many times. We are glad to have you back.

Ms. ABZUG. Thank you, Mr. Chairman. As always, I appreciate the opportunity to appear before your committee, which, under your chairmanship and with its fine membership has made a significant contribution to our concerns as a Nation.

I ask unanimous consent to insert my entire statement into the record at this time.

Chairman MORGAN. Without objection, it is so ordered.
Ms. ABZUG. Thank you, sir.

U.S. ANTIBOYCOTT POLICIES

I am, of course, very concerned about the effect which a foreign boycott may have upon our domestic policy and business. The Government Information and Individual Rights Subcommittee, which I chair, heard testimony last year on discriminatory assignment policies overseas by Federal agencies. These hearings spurred the White House to issue in November a "memorandum to the heads of executive departments and agencies," stating that exclusionary policies of the country to which a potential assignment is being considered "must not be a factor in any part of the selection process of a Federal agency."

In my opinion, President Ford's directive does not go far enough, in that it does not flatly prohibit Federal employees from providing information on their race, religion, or national origin when traveling abroad on official business.

The reason I say this is that in the course of these hearings, we heard testimony from representatives of the Treasury Department that they did not provide such information when applying for visas to Saudi Arabia and the Saudis made no objection to the omission. The point of this is that we give money and other forms of aid to countries such as Saudi Arabia, and they turn around and compel us to break our own laws and basic precepts in the process of giving the aid.

We must find a means to end the Arab boycott. In response to my letter, SEC Chairman Roderick Hills recently stated that American companies participating in the Arab boycott are required to disclose information on their participation in any instance where there is a "material adverse effect upon corporate income, assets (including good will), or profits."

I maintain that any participation, no matter how small the monetary amount, is of vital interest to investors and the public, and I have asked that the SEC disclose all information it has regarding actual participation by American companies and that it require all companies subject to the securities laws to make public disclosure of any participation in the Arab boycott on their part.

In another vein, I recently appeared before the Board of Governors of the Federal Reserve System to urge that their regulations implementing the Equal Credit Act Amendments of 1976 make clear the fact that the legislation prohibits not only discrimination against an applicant for credit on the basis of his or her race, color, religion, or national origin, but also upon the basis of the race, color, religion, or national origin of those with whom the applicant deals.

STRONGER ANTIBOYCOTT MEASURES

I have cosponsored a bill, H.R. 11463, which only required disclosure, but I am rethinking my position on that question, particularly in light of some of the discussion that took place here today. Some of the proposals before the committee, including H.R. 11463, would only require that boycott participation be reported to the Government and then disclosed publicly. This is not enough. The international blacklist that Arab pressure has imposed on American business is a direct challenge to ideals which our Nation has long protected and cherished, including equality of opportunity and treatment regardless of race, religion, color, or national origin.

An interesting thing came out when we held the hearings on the foreign assignment practices. We have laws on the books which prohibit our Federal Government from discriminating against our own employees on the basis of race, color, or national origin, yet we are now violating our own laws. For example, allowing Saudi Arabia not to issue a visa is an indirect way of allowing a government from the outside to cause our own Government to violate our laws.

Disclosure, I think, may not be sufficient to accomplish our objective. To counter this serious threat to free trade, legislation must be enacted along the lines of H.R. 5913, of which I am a cosponsor, or the bill by Mr. Bingham, prohibiting discriminatory practices such as the Arab boycott of Israel and of Jewish individuals.

DISCRIMINATORY ASPECTS OF THE BOYCOTT

The committee report on S. 3084, S. Rept. 94–917, discusses the far-reaching effect of this boycott and the inability of existing law to counter its impact. Especially disturbing are the instances cited of discrimination based solely upon Jewish association, or the fact that managers or board members of a company are of the Jewish faith.

Any general boycott on grounds such as these necessarily results in discrimination against Americans for reasons having nothing to do with international relations or disagreements between nations. The fact that the Arab countries apparently believe that any Jew is necessarily an active supporter of Israel does not in any way justify their boycott practices. And even with respect to Americans who are not Jewish, our laws should protect them from being compelled to discriminate against others for religious or similar reasons.

Americans should not be subjected or permitted to knuckle under to these tactics, which are utterly inconsistent with fundamental democratic principles. This sentiment was expressed by Congress in the original Export Administration Act of 1969, opposing domestic implementation of foreign boycotts.

It is time to put teeth into this policy by amending the act, as has been suggested before this committee, to forbid any American or entity doing business here from participating in any boycott based wholly or in part upon race, religion, or national origin, or a boycott fostered or imposed by any foreign country against another country friendly to the United States. Civil or criminal penalties should also be included in the legislation.

The act must go beyond requiring reports of boycott activities if the domestic impact of the Arab or any other foreign boycott is to be mitigated. We cannot permit our economy and policies to be ruled by the policies of other nations. The provisions of existing law do not mandate any action by the Secretary of Commerce which would effectuate the antiboycott policy of the act. Secretary Richardson, and Secretary Morton before him, have made it painfully clear that they lack the desire to effectuate this policy, and so, we must do what they lack the courage to do.

[The prepared statement of Ms. Abzug follows:]

PREPARED STATEMENT OF HON. BELLA S. ABZUG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, members of the committee, I am pleased to have the opportunity to appear before you this morning to present my views on the subject of foreign boycotts in general and the Arab boycott in particular.

I am deeply concerned about the effect which a foreign boycott may have upon our domestic policy and business. The Government Information and Individual Rights Subcommittee, which I chair, heard testimony last year on discriminatory assignment policies overseas by Federal agencies. These hearings spurred the White House to issue in November a "Memorandum to the Heads of Executive Departments and Agencies", stating that exclusionary policies of the country to which a potential assignment is being considered "must not be a factor in any part of the selection process of a Federal Agency."

In my opinion, President Ford's directive does not go far enough, in that it does not flatly prohibit Federal employees from providing information on their race, religion, or national origin when traveling abroad on official business. We heard testimony from representatives of the Treasury Department that they did not provide such information when applying for visas to Saudi Arabia and the Saudis made no objection to the omission. The point of this is that *we* give money and other forms of aid to countries such as Saudi Arabia, and they turn around and compel us to break our own laws and basic precepts in the process of giving the aid.

We must find a means to end the Arab boycott. In response to my letter, S.E.C. Chairman Hills recently stated that American companies participating in the Arab boycott are required to disclose information on their participation in any instance where there is a "material adverse effect upon corporate income, assets (including good will), or profits."

I maintain that *any* participation, no matter how small the monetary amount, is of vital interest to investors and the public, and I have asked that the SEC disclose all information it has regarding actual participation by American companies and that it require all companies subject to the securities laws to make public disclosure of any participation in the Arab boycott on their part.

In another vein, I recently appeared before the Board of Governors of the Federal Reserve System to urge that their regulations implementing the Equal Credit Act Amendments of 1976 make clear the fact that the legislation prohibits not only discrimination against an applicant for credit on the basis of *his or her* race, color, religion, or national origin, but also upon the basis of the race, color, religion, or national origin of *those with whom the applicant deals.*

Some of the proposals before you would only require that boycott participation be reported to the Government and then disclosed publicly. This is not enough. The international blacklist that Arab pressure has imposed on American business is a direct challenge to ideals which our Nation has long protected and cherished, including equality of opportunity and treatment regardless of race, religion, color, or national origin. To counter this serious threat to free trade, legislation must be enacted along the lines of H.R. 7712, of which I am a cosponsor, of the bill by Mr. Bingham, *prohibiting* discriminatory practices such as the Arab boycott of Israel and of Jewish individuals.

The committee report on S. 3084, S. Rep. 94-917, discusses the far-reaching effect of this boycott and the inability of existing law to counter its impact. Especially disturbing are the instances cited of discrimination based solely upon Jewish association, or the fact that managers or board members of a company are of the Jewish faith.

Any general boycott on grounds such as these necessarily results in discrimination against Americans for reasons having nothing to do with international relations or disagreements between nations. The fact that the Arab countries apparently believe that any Jew is necessarily an active supporter of Israel does not in any way justify their boycott practices. And even with respect to Americans who are not Jewish, our laws should protect them from being compelled to discriminate against others for religious or similar reasons.

Americans should not be subjected or permitted to knuckle under to these tactics, which are utterly inconsistent with fundamental democratic principles. This sentiment was expressed by Congress in the original Export Administration Act of 1969, opposing domestic implementation of foreign boycotts.

It is time to put teeth into this policy by amending the Act (a) to forbid any American or entity doing business here from participating in any boycott based wholly or in part upon race, religion, or national origin, or a boycott fostered or imposed by any foreign country against another country friendly to the United States, and (b) to require reporting and disclosure of any such participation. Civil or criminal penalties should also be included in the legislation.

The Act must go beyond requiring reports of boycott activities if the domestic impact of the Arab or any other foreign boycott is to be mitigated. We cannot permit our economy and policies to be ruled by the policies of other nations. The

provisions of existing law do not mandate any action by the Secretary of Commerce which would effectuate the antiboycott policy of the Act. Secretary Richardson, and Secretary Morton before him, have made it painfully clear that they lack the desire to effectuate this policy, and so, we must do what they lack the courage to do.

The amendments to the Export Administration Act must directly attack the Arab efforts to dictate discriminatory practices and policies to Americans and American businesses. I am sensitive to the problem of distinguishing between the case where there is participation in a boycott and the case where a lack of doing business in a given country is due to economic factors having no connection with a boycott. I do not think, however, that this problem is grounds for ignoring the boycott or for failing to attack it as firmly and as directly as possible, namely, by an absolute prohibition of compliance with boycott demands.

It is time to face the invidious nature of foreign boycotts based upon such arbitrary factors as religious association. They have no place in this great country of ours, and we must enact legislation in this Congress which makes it clear that they have no place here.

Chairman MORGAN. We will take a 10-minute recess, Ms. Abzug, as we have to take a vote on the floor.

Ms. ABZUG. Unless the committee has some questions, I would like to go back to my own committee hearing when I leave here and vote.

Mr. BINGHAM. I have no questions.

Chairman MORGAN. We thank you then, Ms. Abzug, for coming today.

Mr. SOLARZ. I will ask you in the cloakroom.

Chairman MORGAN. Thank you.

Ms. ABZUG. I am trying to expedite the work of this committee.

Chairman MORGAN. We will return in 10 minutes.

[A recess was taken at 11:10 a.m.]

Chairman MORGAN. The committee will come to order, please.

Our next witness is the very distinguished Member of Congress, a member of the Appropriations Committee, from the great State of New York, Mr. Edward Koch.

STATEMENT OF HON. EDWARD I. KOCH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. KOCH. Thank you, Mr. Chairman.

What I would like to do is file my formal statement and make some, hopefully, brief comments because I know that there are a number of witnesses who have come here to testify besides Members of Congress and I want to afford them time.

Chairman MORGAN. With objection, your statement will be made a permanent part of the record.

LEGISLATIVE PROPOSALS

Mr. KOCH. First, I would like to point out that there are two Koch-Scheuer bills—one has been discussed that relates to the tertiary boycott, reporting, disclosures and other aspects. That bill, H.R. 11463, has the cosponsorship of 75 other Members of Congress. And there is a second bill which Congressman Scheuer and I introduced on April 5, H.R. 13151, which explicitly outlaws the secondary boycott as well as the tertiary, and also has the reporting requirements and other provisions of H.R. 11463.

I would like to make both of those bills part of the record.

[The texts of H.R. 11463 and H.R. 13151 follows:]

94TH CONGRESS
2D SESSION

H. R. 11463

IN THE HOUSE OF REPRESENTATIVES

JANUARY 22, 1976

Mr. KOCH (for himself, Ms. ABZUG, Mr. ADDABBO, Mr. BADILLO, Mr. BLANCHARD, Mr. BRODHEAD, Mr. CARNEY, Mrs. CHISHOLM, Mr. DOWNEY of New York, Mr. EILBERG, Mr. FLORIO, Mr. FRASER, Mr. GILMAN, Mr. GONZALEZ, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. LEHMAN, Mr. LEVITAS, and Mr. LONG of Maryland) introduced the following bill; which was referred jointly to the Committees on International Relations and Interstate and Foreign Commerce

A BILL

To amend the Export Administration Act of 1969 to strengthen the antiboycott provisions of such Act, to amend the Securities Exchange Act of 1934 to enhance investor disclosure provisions of that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FOREIGN BOYCOTTS

SEC. 101. This title may be cited as the "Foreign Boycotts Act of 1975".

SEC. 102. (a) Section 3(5)(A) of the Export Administration Act of 1969 (hereinafter in this title referred to as the "Act") is amended by inserting immediately after

"United States" the following: "or against any domestic concern".

(b) Section 3 (5) (B) of the Act is amended by inserting immediately after "United States" the following: "or against any domestic concern".

SEC. 103. (a) Section 4 (b) (1) of the Act is amended by striking out the next to the last sentence.

(b) Section 4 (b) of the Act is amended by redesignating paragraphs (2) through (4) and any cross references thereto as paragraphs (3) through (5), respectively, and inserting after paragraph (1) a new paragraph (2) as follows:

"(2) (A) Pursuant to such rules and regulations as he may deem necessary and appropriate, the Secretary of Commerce shall implement the provisions of section 3 (5) of this Act.

"(B) Such rules and regulations shall require that any domestic concern which receives a request for the furnishing of information, the signing of agreements, or the taking of any other action referred to in section 3 (5) of this Act, shall transmit to the Secretary of Commerce a report stating that such request was received, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the purposes of that section. Such report shall also state whether

such concern intends to comply with such request. Any report filed pursuant to this subparagraph after the enactment of the Foreign Boycotts Act of 1975 shall be made available promptly for public inspection and copying, and the Secretary of Commerce shall transmit copies thereof to the Secretary of State on a periodic basis for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the purposes of section 3(5) of this Act.

"(C) Rules and regulations implementing such provisions shall also prohibit each domestic concern from (i) furnishing information regarding the race, religion, sex, or national origin of that concern's or of any other domestic concern's, directors, officers, employees, or shareholders to or for the use by any foreign country, national, or agent thereof where such information is sought for the purpose of enforcing or implementing restrictive trade practices or boycotts against a country friendly to the United States or against any domestic concern, or (ii) refusing to do business with any other domestic concern or person pursuant to an agreement with, requirement of, or a request from, or on behalf of, any foreign country, national, or agent thereof made or imposed for the purpose of enforcing or implementing restrictive trade practices or boycotts against a country friendly to the United States or against any domestic con-

cern. Any civil penalty imposed under this Act for a violation of rules or reguiations issued under clause (ii) of the preceding sentence may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.".

SEC. 104. (a) Section 6 (c) of the Act is amended--

(1) by striking out "The head" and inserting in lieu thereof "Except as otherwise provided in the second sentence of this subsection, the head"; and

(2) by adding at the end thereof the following: "The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of section 4 (b) (2) of this Act or of any rule or regulation issued thereunder, either in addition to or in lieu of any other liability or penalty which may be imposed. Any charging letter or other document initiating proceedings by the Secretary of Commerce after enactment of the Foreign Boycotts Act of 1975 for the imposition of sanctions for violations of section 4 (b) (2) of this Act shall be made available for public inspection and copying.".

(b) Section 7 (c) of the Act is amended by striking the

word "No" at the beginning thereof and inserting in lieu thereof the following: "Except as otherwise provided by this Act, no".

SEC. 105. Section 10 (b) of the Act is amended by adding at the end thereof a new paragraph (3) as follows:

"(3) Each such quarterly report shall also contain a description of actions taken by the President and the Secretary of Commerce to effect the policy of section 3 (5) of this Act.".

SEC. 106. Section 11 of the Act is amended by adding at the end thereof the following: "The term 'domestic concern' as used in this Act shall include banks and other financial institutions, insurers, freight forwarders, and shipping companies organized under the laws of the United States or of any State or any political subdivision thereof.".

TITLE II—DISCLOSURE

SEC. 201. This title may be cited as the "Domestic and Foreign Investment Improved Disclosure Act of 1975".

SEC. 202. Section 13 (d) (1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended to read as follows:

"(d) (1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the

exemption contained in section 12 (g) (2) (G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing such of the following information, and such additional information, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) the background, identity, residence, and nationality of, and the nature of such beneficial ownership by, such person and all other persons by whom or on whose behalf the purchases have been or are to be effected;

"(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is

a loan made in the ordinary course of business by a bank, as defined in section 3 (a) (6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

"(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities, any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make any other major change in its business or corporate structure;

"(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the background, identity, residence, and nationality of each such associate; and

"(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts,

arrangements, or understandings have been entered into, and giving the details thereof.".

SEC. 203. Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end thereof the following new subsection:

"(g) (1) (A) Every holder of record on one-tenth of 1 per centum of any security of a class described in section 13 (d) (1) of this title holding such security for the account of another person shall file reports with the issuer of such securities in such form, at such times, and containing such information with respect to the identity, residence, and nationality of the beneficial owner of such securities as the Commission, by rule, may prescribe.

"(B) Every person for whom a second person is holding one-tenth of 1 per centum of any security of a class described in section 13 (d) (1) of this title who, in turn, is holding such securities for the account of a third person shall file reports with such second person in such form, at such times, and containing such information with respect to the identity, residence, and nationality of the beneficial owner of such securities as the Commission, by rule, may prescribe.

"(2) Every issuer of a security of a class described in section 13 (d) (1) of this title shall maintain in such form as the Commission, by rule, may prescribe a reasonably current list of the identity, residence, and nationality of the bene-

ficial owners of the securities of each such class. Every such issuer shall file such list, or any specified part thereof, with the Commission at such times as the Commission, by rule, may prescribe, but in no event shall such list or specified part thereof be filed less frequently than annually or more frequently than quarterly.

"(3) In exercising its authority under this subsection, the Commission shall determine (and so state) that its action is necessary or appropriate in the public interest or for the protection of investors.

"(4) For purposes of this subsection, a person is a 'beneficial owner' of a security if he, directly or indirectly, through any contract, arrangement, understanding, or relationship (whether legal, economic, or otherwise) has or shares the power to (A) direct the voting of such security, or (B) sell, prevent sale, or otherwise dispose of the security.".

SEC. 204. Section 21 (d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by removing the period at the end of the first sentence and inserting the following: "together with such ancillary relief as such court may, in its discretion, deem necessary or appropriate. In any action to enjoin violations of, or to enforce compliance with, section 13 (d), 13 (f) 14 (d), or 14 (g) of this title, and, without in any way limiting the discretion or authority of such court,

the court may, in its discretion, on such terms and conditions as it deems appropriate, grant ancillary relief providing for (A) restrictions on transfers with appropriate notice to the transfer agents registered for the securities, (B) revocation or suspension, temporarily or permanently, of the right to vote or control the vote of any securities with respect to which the reporting requirements of such sections have been or are being violated, (C) prohibition of payment or impoundment of dividends on any such securities; or (D) public sale of such securities with remittance of the proceeds therefrom, less expenses, to the owners of record thereof.".

SEC. 205. Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 780(c)) is amended by inserting at the end thereof the following new paragraph:

"(7) No broker, dealer, or bank shall, in contravention of such rules as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, make use of the mails, or any means or instrumentality of interstate commerce, to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security of a class described in section 13(d)(1) of this title where such broker, dealer, or bank knew, or in the

exercise of reasonable care should have known, that information with respect to any beneficial owner of such security has not been filed with the issuer in accordance with section 14(g) of this title.".

94TH CONGRESS
2D SESSION

H. R. 13151

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 1976

Mr. KOCH (for himself and Mr. SCHEUER) introduced the following bill; which was referred jointly to the Committees on International Relations and Interstate and Foreign Commerce

A BILL

To amend the Export Administration Act of 1969 to strengthen the antiboycott provisions of such Act, to amend the Securities Exchange Act of 1934 to enhance investor disclosure provisions of that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FOREIGN BOYCOTTS

SEC. 101. This title may be cited as the "Foreign Boycotts Act of 1976".

SEC. 102. Section 3(5) of the Export Administration Act of 1969 (hereinafter in this title referred to as the "Act") is amended to read as follows:

"(5) It is the policy of the United States (A) to oppose

restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any domestic concern, (B) to prohibit domestic concerns engaged in the export of articles, materials, supplies, or information from taking any action, including the furnishing of information or the signing of agreements, which has the effect of furnishing or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States or against any domestic concern, and (C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.".

SEC. 103. (a) Section 4(b)(1) of the Act is amended by striking out the next to the last sentence.

(b) Section 4(b) of the Act is amended by redesignating paragraphs (2) through (4) and any cross references thereto as paragraphs (3) through (5), respectively, and inserting after paragraph (1) a new paragraph (2) as follows:

"(2)(A) Pursuant to such rules and regulations as he may deem necessary and appropriate, the Secretary of Commerce shall implement the provisions of section 3(5) of this Act.

"(B) Such rules and regulations shall require that any

domestic concern which receive a request for the furnishing of information, the signing of agreements, or the taking of any other action referred to in section 3 (5) of this Act, shall transmit to the Secretary of Commerce a report stating that such request was received, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the purposes of that section. Such report shall also state whether such concern intends to comply with such request. Any report filed pursuant to this subparagraph after the enactment of the Foreign Boycotts Act of 1975 shall be made available promptly for public inspection and copying, and the Secretary of Commerce shall transmit copies thereof to the Secretary of State on a periodic basis for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the purposes of section 3 (5) of this Act.

"(C) Rules and regulations implementing such provisions shall also prohibit each domestic concern from (i) furnishing information regarding the race, religion, sex, or national origin of that concern's or of any other domestic concern's, directors, officers, employees, or shareholders to or for the use by any foreign country, national, or agent thereof where such information is sought for the purpose of enforcing or implementing restrictive trade practices or boy-

cotts against a country friendly to the United States or against any domestic concern, (ii) refusing to do business with any other domestic concern or person pursuant to an agreement with, requirement of, or a request from, or on behalf of, any foreign country, national, or agent thereof made or imposed for the purpose of enforcing or implementing restrictive trade practices or boycotts against a country friendly to the United States or against any domestic concern, or (iii) refusing to do business with a country friendly to the United States or national thereof pursuant to an agreement with, requirement of, or request from, or on behalf of, any other foreign country, national, or agent thereof made or imposed for the purpose of enforcing or implementing restrictive trade practices or boycotts against a country friendly to the United States or against any domestic concern. Any civil penalty imposed under this Act for a violation of rules or regulations issued under clause (ii) or (iii) of the preceding sentence may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.".

SEC. 104. (a) Section 6(c) of the Act is amended—

(1) by striking out "The head" and inserting in lieu thereof "Except as otherwise provided in the second sentence of this subsection, the head"; and

(2) by adding at the end thereof the following: "The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of section 4(b)(2) of this Act or of any rule or regulation issued thereunder, either in addition to or in lieu of any other liability or penalty which may be imposed. Any charging letter or other document initiating proceedings by the Secretary of Commerce after enactment of the Foreign Boycotts Act of 1975 for the imposition of sanctions for violations of section 4(b)(2) of this Act shall be made available for public inspection and copying.".

(b) Section 7(c) of the Act is amended by striking the word "No" at the beginning thereof and inserting in lieu thereof the following: "Except as otherwise provided by this Act, no".

SEC. 105. Section 10(b) of the Act is amended by adding at the end thereof a new paragraph (3) as follows:

"(3) Each such quarterly report shall also contain a description of actions taken by the President and the Secretary of Commerce to effect the policy of section 3(5) of this Act.".

SEC. 106. Section 11 of the Act is amended by adding

at the end thereof the following: "The term 'domestic concern' as used in this Act shall include banks and other financial institutions, insurers, freight forwarders, and shipping companies organized under the laws of the United States or of any State or any political subdivision thereof.".

TITLE II—DISCLOSURE

SEC. 201. This title may be cited as the "Domestic and Foreign Investment Improved Disclosure Act of 1975".

SEC. 202. Section 13 (d) (1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended to read as follows:

"(d) (1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12 (g) (2) (G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing such of the following

information, and such additional information, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) the background, identity, residence, and nationality of, and the nature of such beneficial ownership by, such person and all other persons by whom or on whose behalf the purchases have been or are to be effected;

"(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 3 (a) (6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

"(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities, any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make

any other major change in its business or corporate structure;

"(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the background, identity, residence, and nationality of each such associate; and

"(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.".

SEC. 203. Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end thereof the following new subsection:

"(g) (1) (A) Every holder of record on one-tenth of 1 per centum of any security of a class described in section 13 (d) (1) of this title holding such security for the account of another person shall file reports with the issuer of such secu-

rities in such form, at such times, and containing such information with respect to the identity, residence, and nationality of the beneficial owner of such securities as the Commission, by rule, may prescribe.

"(B) Every person for whom a second person is holding one-tenth of 1 per centum of any security of a class described in section 13(d)(1) of this title who, in turn, is holding such securities for the account of a third person shall file reports with such second person in such form, at such times, and containing such information with respect to the identity, residence, and nationality of the beneficial owner of such securities as the Commission, by rule, may prescribe.

"(2) Every issuer of a security of a class described in section 13(d)(1) of this title shall maintain in such form as the Commission, by rule, may prescribe a reasonably current list of the identity, residence, and nationality of the beneficial owners of the securities of each such class. Every such issuer shall file such list, or any specified part thereof, with the Commission at such times as the Commission, by rule, may prescribe, but in no event shall such list or specified part thereof be filed less frequently than annually or more frequently than quarterly.

"(3) In exercising its authority under this subsection, the Commission shall determine (and so state) that its action

is necessary or appropriate in the public interest or for the protection of investors.

"(4) For purposes of this subsection, a person is a 'beneficial owner' of a security if he, directly or indirectly, through any contract, arrangement, understanding, or relationship (whether legal, economic, or otherwise) has or shares the power to (A) direct the voting of such security, or (B) sell, prevent sale, or otherwise dispose of the security.".

SEC. 204. Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by removing the period at the end of the first sentence and inserting the following: "together with such ancillary relief as such court may, in its discretion, deem necessary or appropriate. In any action to enjoin violations of, or to enforce compliance with, section 13(d), 13(f), 14(d), or 14(g) of this title, and, without in any way limiting the discretion or authority of such court, the court may, in its discretion, on such terms and conditions as it deems appropriate, grant ancillary relief providing for (A) restrictions on transfers with appropriate notice to the transfer agents registered for the securities, (B) revocation or suspension, temporarily or permanently, of the right to vote or control the vote of any securities with respect to which the reporting requirements of such sections have been or are being violated, (C) prohibition of payment

or impoundment of dividends on any such securities; or (D) public sale of such securities with remittance of the proceeds therefrom, less expenses, to the owners of record thereof.".

SEC. 205. Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 780(c)) is amended by inserting at the end thereof the following new paragraph:

"(7) No broker, dealer, or bank shall, in contravention of such rules as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, make use of the mails, or any means or instrumentality of interstate commerce, to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security of a class described in section 13(d)(1) of this title where such broker, dealer, or bank knew, or in the exercise of reasonable care should have known, that information with respect to any beneficial owner of such security has not been filed with the issuer in accordance with section 14(g) of this title.".

MORALITY IN U.S. POLICY

Mr. KOCH. I would like to compliment the members of your committee for their work on this subject and my good, close friend, Congressman Rosenthal, for his masterful presentation. I say that without hesitation. He laid out the facts in a brilliant statement, and there is little that can be added in documentation to that which he brought to the attention of the committee.

I would like to highlight some of the points previously raised, and try to raise some other aspects apart from the facts which Congressman Rosenthal stated so brilliantly.

First, without going into the secondary boycott and the tertiary boycott, there is, Mr. Chairman, a question of morality, not just legality, and the morality is this. One, with respect to the tertiary boycott, shall we permit a foreign power to tell one American businessman that he or she must discriminate against another American businessman?

That is intolerable. I think that we are beyond debating that; there can't be anyone in this Congress who would permit that.

With respect to the secondary boycott, I think we in Congress have expressed ourselves, as has been pointed out under the prior Export Administration Act, that we ought not to permit secondary boycotts. Unfortunately, that is just a statement of policy.

The second Koch-Scheuer bill which I mentioned and other similar legislation, including Congressman Rosenthal's amendment deal with that aspect.

LETTER TO ARMED SERVICES PROCUREMENT REGULATOR

Why is it essential that this committee deal with boycotts?

On April 9, I sent a letter to the Armed Services Procurement Regulation Committee, chaired by Col. Ronald Obach, and I will read just a paragraph from it. I said to him:

It has come to our attention that Federal procurement funds have been paid to companies violating the policy set forth in Section 3 of the Export Administration Act, which declares it to be the policy of the United States—

And here I quote:

"To oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States." As members of the Congress of the United States, which has primary responsibility under the Constitution for the expenditure of federal funds, we cannot tolerate the award of government contracts and the payment of federal procurement funds to companies that choose to violate the policy stated in Section 3 of the Export Administration Act especially when such award of government contracts and payment of such funds would directly promote the violation of that policy.

That letter was signed by 64 Members of Congress, and an additional 10 have subsequently signed a followup letter on the same subject.

[The letter referred to follows:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 9, 1976.

Col. RONALD M. OBACH,
Chairman, ASPR Committee, Pentagon,
Washington, D.C.

DEAR SIR: It has come to our attention that federal procurement funds have been paid to companies violating the policy set forth in Section 3 of the Export

Administration Act which declares it to be the policy of the United States "to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States." As Members of the Congress of the United States, which has primary responsibility under the Constitution for the expenditure of federal funds, we cannot tolerate the award of government contracts and the payment of federal procurement funds to companies that choose to violate the policy stated in Section 3 of the Export Administration Act, especially when the award of government contracts and the payment of such funds would directly promote the violation of that policy.

Any United States company that agrees to honor trade conditions which have the effect of furthering or supporting restrictive trade practices or boycotts against countries friendly to the United States is in direct violation of important and express policies of the United States. Government contractors are the recipients of important government benefits and have a special obligation not to violate the state policies of this nation. The federal procurement statutes expressly recognize that obligation, and require that government contracts be awarded only to contractors who are "responsible." 10 U.S.C. § 2305. The participation of a United States government contractor, even passively, in efforts by foreign nationals to effect boycotts against other foreign countries friendly to the United States is, in our view, a clear misuse of the privileges and benefits conferred upon government contractors. Such a contractor cannot be considered "responsible," as that term is used in the procurement statutes.

The award of contracts to such companies is also a clear abdication of government responsibility. The federal procurement statutes explicitly require that government contract awards be made only if it is determined that they are "most advantageous to the United States" and "in the public interest." 10 U.S.C. § 2305. Those required determinations cannot be made with regard to contracts awarded to companies which deliberately violate the national policy against the boycott of friendly nations.

This government is committed by the Export Administration Act "to oppose" efforts by foreign nationals to effect boycotts against other foreign countries friendly to the United States, and "to encourage" domestic companies "to refuse to take any action" which has the effect of furthering such boycotts. By awarding government contracts and paying federal procurement funds to a contractor who has chosen to violate the national policy against boycotts of friendly nations, the government would fail to meet its express obligation of encouraging compliance with that important national policy. More importantly, by providing federal funding and assistance to such a contractor, the government would directly encourage and support the violation of that policy. This it may not do.

Accordingly, we request that the procurement regulations be amended immediately in the manner set out below to assure that United States government expenditures shall not be used in violation of the clearly stated statutory policies of this nation.

Additional provisions to the Armed Services Procurement Regulations:

§ 1-116.—*Compliance with the Export Administration Act*

(a) The Export Administration Act of 1969, 50 U.S.C. App. § 2402 (5), declares that: "It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, and (B) to encourage and request domestic concerns . . . to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States."

(b) To implement this policy of the United States, the clause in 7-103.30 shall be included in (i) all invitations for bids, (ii) all requests for proposals, and (iii) all contracts (including contracts resulting from unsolicited proposals)

§ 7-103.30.—*Certification of Compliance with Export Administration Act*

In accordance with 1-116, the following clause shall be included in all invitations for bids, requests for proposals, and contracts:

"The contractor hereby certifies that it, and all of its affiliates and subsidiaries, shall refuse to comply with any request or demand to take any action, including the furnishing of information or the making of agreements, in connection with any business activities of such companies, which has the effect of furthering or supporting restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States or against any United States person, company, or organization. For breach or

violation of this certification this contract may be cancelled, terminated or suspended in whole or in part without liability to the Government, and the contractor may be declared ineligible for further Government contracts."

The above provisions can be promulgated by your committee and are required to clarify this Government's existing responsibility under the procurement statutes to assure that federal procurement funds are not used to support violations of express statutory policies of the United States.

Sincerely,

EDWARD I. KOCH,
(And 63 others).

RESPONSE TO LETTER

Mr. KOCH. I got a response, from the Office of Federal Procurement Policy, and the response was a negative one. I will quote in part—

The so-called antiboycott provision—

referring to the public policy set forth in the Export Administration Act—

was a 1965 amendment to the Export Control Act of 1949. That provision was reenacted in the Export Administration Act of 1969 * * *. It is our understanding that these amendments were made with the full knowledge of the procedures used by the Department of Commerce to implement the antiboycott provision.

The Executive Branch view is that the present provisions of the Export Administration Act encourage and request U.S. firms not to give information or sign agreements that further or support restrictive trade practices or boycotts, but do not prohibit such action or make it illegal. Further, the Administration believes that the present provisions of the Act, taken together with the measures announced in the November 20, 1975, statement of the President, including action by the Department of Justice with respect to the possible violation of U.S. antitrust laws stemming from restrictive trade practices by foreign countries, are adequate. Therefore, we feel it is inappropriate to consider an administrative regulation as proposed in your letter of April 9th, particularly since Congress is presently considering the continuation, termination or amendment of the Export Administration Act prior to its expiration on September 20, 1976.

[The letter referred to follows:]

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 26, 1976.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: This is in response to your letter of April 9, 1976, to the ASPR Committee regarding Section 3 of the Export Administration Act. The Department of Defense has forwarded your letter to the Office of Federal Procurement Policy (OFPP) because we have responsibility for procurement policy applicable to all Federal agencies.

Section 3 of the Export Administration Act states:

"It is the policy of the United States (A) to *oppose* restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, and (B) to *encourage* and *request* domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States." (Emphasis added.)

The so-called antiboycott provision was a 1965 amendment to the Export Control Act of 1949. That provision was reenacted in the Export Administration Act of 1969 (Public Law 91-184). The act was amended again, each time after consideration by Congress, in August 1972 (Public Law 92-412), and October 1974 (Public Law 93-500). It is our understanding that these amendments were made with full knowledge of the procedures used by the Department of Commerce to implement the antiboycott provision.

The executive branch view is that the present provisions of the Export Administration Act encourage and request U.S. firms not to give information or sign agreements that further support restrictive trade practices or boycotts but do not prohibit such action or make it illegal. Further, the Administration believes that the present provisions of the Act, taken together with the measures announced in the November 20, 1975, statement by the President (including action by the Department of Justice with respect to possible violations of U.S. antitrust laws stemming from restrictive trade practices by foreign countries), are adequate. Therefore, we feel it is inappropriate to consider an administrative regulation as proposed in your letter of April 9, particularly since Congress is presently considering the continuation, termination or amendment of the Export Administration Act prior to its expiration on September 20, 1976.

Sincerely,

HUGH E. WITT, *Administrator.*

Mr. KOCH. So here is a Federal agency in the Executive Office of the President that says it isn't going to do anything because it wants the Congress to make that decision, and that is why it is so essential that this committee act.

DISCLOSURE

Now let me comment on something that my good friend Steve Solarz mentioned with respect to disclosure.

The fifth amendment does not apply to corporations. They cannot hide behind the fifth amendment, if the Congress requires them to disclose their boycott intentions. Second, with respect to the same point brought out by my good friend Jonathan Bingham; it is not enough to prohibit complicity with the boycott; you have to police, and the way you police it is through the self-enforcement mechanism of the reporting requirement.

It may be that companies are going to violate the law. Who is going to know, unless they have to file public reports? And that is why disclosure in my judgment is important.

MORALITY IN U.S. POLICY

Let me get back to the question of morality. There are those who will say: "Won't it affect business?" And maybe it will. Congressman Rosenthal touched upon that. I suspect it will ultimately affect business, but is that prime consideration?

I suggest that no one can take the point of view that business comes ahead of morality.

There are those who defended the Lockheed bribes by saying we couldn't do business unless we paid bribes. This country says "No; that isn't true." And even if it were true, we are not going to allow you to pay bribes, and I suspect that Lockheed and others that paid bribes are sorry today that they did. They will not, hopefully, pay bribes in the future, and their business will not be impeded.

There are also those who say you can't put restrictions on the sale of arms, such as the proposed $9 billion restriction. They say we are going to sell $20 billion of arms, we are going to sell whatever we can sell. But there are others who say, no, there is a moral question. We can put limits on the sale of arms abroad.

I simply put that in the context of this boycott legislation. We can say to American businessmen, "You will not discriminate against another American businessman, and you will not discriminate as a

result of the extortion of a foreign power against a country friendly to us."

I know, Mr. Chairman, that this committee will arrive at the appropriate language and it is going to be an amalgam. I hope it is called the Morgan amendment, because I want to pay homage to you, Mr. Chairman, for all that you have done in prohibiting discrimination and assisting the democracies in this world, including Israel.

I know that this committee is going to put morality ahead of business and ahead of the procedural impediments that are cited by the administration. The administration said, as it has on so many occasions, "Trust us," and then they came up with a regulation that was flimflam, it didn't prohibit the boycott. It put a nice coating on the problem, but it didn't prohibit the boycott, and what I am saying is this: Whatever regulations the administration adopts have to be enlarged upon and made part of the law, I urge this committee to report the strongest possible amendment.

LEGISLATIVE PROPOSALS

The first bill to which I referred today simply tracks the Stevenson bill. I had the pleasure and privilege with Congressman Scheuer of being the initiating sponsor on the House side.

The second Koch-Scheuer bill deals with the secondary boycott as well, and I would urge you to adopt legislation on the problem, because it is moral to do so.

Thank you.

[The prepared statement of Mr. Koch follows:]

PREPARED STATEMENT OF HON. EDWARD I. KOCH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I appreciate this opportunity to address the House Committee on International Relations to discuss legislation designed to prohibit American companies from participating in the Arab economic boycott of Israel or other countries friendly to the United States.

The economic boycott of Israel, as the Committee knows, has paralleled the tragic chain of events that has marked the history of the Middle East since 1948. The Arab nations have not only refused to make peace with Israel and recognize her legitimacy as a nation, but have also continually attempted to isolate Israel economically and politically. Ostensibly the Arab belligerents organized the economic boycott of Israel as part of a political and economic campaign against Israel, but in fact the boycott goes beyond the steps belligerent nations have traditionally invoked as economic sanctions: the boycott has become a continuing attempt by Arab nations to involve domestic American companies in conspiracies and boycotts against other American companies. This nation must not allow a foreign nation or group of nations to demand that one American company or individual discriminate against another.

Some have pointed to our own boycott of other nations, in particular Cuba and North Vietnam, as precedent for the boycott of one country by another. Yet these American economic boycotts have never attempted the sweeping and far-reaching restrictions attempted by the Arabs in their boycott of Israel.

To my knowledge, the American boycott of Cuba and North Vietnam has not attempted to prevent companies located in other nations from trading with countries the United States does not trade with. In the case of Cuba, foreign subsidiaries of American companies have even been allowed to trade with Cuba. We have not attempted to prevent companies located abroad from trading with the United States simply because they trade with North Vietnam or Cuba. The Arab boycott goes far beyond the recognized, traditional rights of a belligerent nation to cut off trade with its enemy.

Statements of policy against economic boycotts and reaffirmations of the law on racial and religious discrimination will not end the immoral "tertiary" and "secondary" economic boycotts of American companies imposed by foreign governments.

As you know, the boycott of Israel has involved three levels of economic coercion: a primary boycott in which Arab nations refuse to permit direct trade with and actually "backlist" companies who have plants in joint ventures in, or trade with Israel, or who are determined by the Arabs to have "Zionist" leanings; and most insidious and far reaching of all, the tertiary boycott: a refusal to trade with third-party firms whose only "fault" is that they trade with blacklisted companies. I find all of these boycotts morally offensive, because I believe in the legitimacy of the State of Israel and the desirability of extensive, free trading among all parties in the Middle East, and more importantly because we should not permit a foreign country to require one U.S. citizen to discriminate against another.

Recognizing that a state of war exists between Israel and the Arab nations, what actions will the United States tolerate as legitimate for one belligerent to use against another? The United States must not acquiesce to requirements that it discriminate among its own citizens, and that is why I find both the secondary and tertiary boycotts equally reprehensible.

Along with Congressman James Scheuer, I have proposed H.R. 11463, legislation which would forbid American companies from boycotting another American company in response to an Arab boycott request. The bill is the House version of S. 953, the Stevenson-Williams bill, and has been cosponsored by 76 Members of the House. H.R. 11463 would require that all boycott requests be reported to the Department of Commerce, along with a statement by the company whether it intended to comply with the request. Such reports would also be available for public inspection. American companies would also be prohibited from furnishing information to any foreign country or its agent regarding the race, religion, sex, or national origin of any domestic company's employees, directors, or shareholders, where the information is sought to enforce a boycott against a country friendly to the United States.

Congressman Scheuer and I have also introduced H.R. 13151, which explicitly outlaws the secondary boycott as well as dealing with the problems outlined above, and I recommend that the Committee adopt language which explicitly prohibits the secondary boycott.

I am pleased that the Senate Committee on Banking has favorably reported S. 953, the counterpart of H.R. 11463, and that it has been incorporated as part of S. 3084, the Export Administration Act. I hope this Committee acts in its amendments to the Export Administration Act to prohibit both secondary and tertiary boycotts.

I believe this legislation is a very moderate step in demonstrating the commitment of the United States to fair dealing for all its citizens as well as our opposition to the involvement of American companies in activities harmful to any nation friendly to the United States. The economic boycott has been used to discriminate against companies which ostensibly have economic interests in Israel, but there have been repeated indications that the boycott has racial and religious overtones as well as the political objectives described by the Arabs. Companies may be blacklisted for any number of reasons, stated or unstated, and the suspicion remains that "Zionist sympathies" or the ethnic background of a company's management have much to do with blacklisting of a company.

There are those who say that this legislation is unnecessary, because quiet diplomacy and the existing law are adequate. I disagree. Both H.R. 11463 and H.R. 13151 would clarify and reinforce the law, regulations, and policy of the United States, so that any ambiguity about United States' policy will be removed.

I commend the President's order of November 20, 1975, directing the Secretary of Commerce to amend the Export regulations to prohibit U.S. exporters from answering or complying with boycott requests which would cause discrimination against U.S. citizens on the basis of race, religion, sex, or natural origin. H.R. 11463 would provide explicit authority for this action, and would also require a company to refuse to provide information about race, religion, sex, or nationality which could be used for boycott purposes.

The explicit requirement of the reporting of boycott requests has also been adopted by regulation. H.R. 11463 would make this a statutory requirement and also provides for public disclosure. The public is entitled to know whether

American companies are complying with boycott requests. Since the Commerce Department began in October 1975 to require American firms to declare whether they were complying with the boycott, we have learned that over 90 percent of the U.S. sales destined for Arab countries have been in compliance with boycott requests. This information was compiled from Department of Commerce documents by Congressman John E. Moss' Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, and I urge the Committee to solicit his views on the Commerce Department's administration of the present Export Administration Act.

American banks are also complying with boycott restrictions, according to testimony presented to Congressman Rosenthal's Subcommittee of Government Operations on Tuesday. Under present law, the banks need only report their compliance with the boycott and are not forbidden from participating, and I agree with Congressman Rosenthal that legislation is needed to end the banks' complicity in the boycott.

The administration has also argued that the antitrust laws are adequate to prevent refusals by one American company to deal with another and have cited their recent antitrust complaint in *United States* v. *Bechtel*. Aside from the inherent difficulties of infrequent and lengthy antitrust litigation, substantial doubts exist among antitrust lawyers that the government will prevail in *Bechtel* on the antitrust theory. Among other problems, because *Bechtel* can argue that its acts are the result of foreign compulsion, its liability is in question. Furthermore, a conspiracy among two companies to withhold business from a third is quite different from a requirement imposed by a country on a company. In the latter situation, the motives of the parties are not purely economic, and we should recognize that the antitrust laws were not designed to answer restraints imposed for reasons of international politics. The legislation we propose would clear up a very murky area of law and obviate the need for extended litigation of doubtful outcome. It would simply make illegal the boycott of one American company by another, in response to a foreign government's demand.

The United States needs a clear, national policy on boycotts. I want also to mention one parochial concern. Some states, including New York State, have made compliance with the boycott illegal. Because of New York State's action, business formerly originating at the Port of New York is now being diverted to other ports. Without a national policy against economic boycotts, those states who take a strong stand to protect the rights of their citizens will be penalized economically. This result may be viewed well in Arab capitals, but it cannot be tolerated here. I urge the Committee to adopt a strong amendment to the Export Administration Act to deal with boycotts and I commend H.R. 11463 and H.R. 13151 for your consideration.

Chairman MORGAN. Thank you.

Mr. Bingham.

DISCLOSURE

Mr. BINGHAM. Thank you, Mr. Chairman. Because we have another vote I won't take any time in questions.

I think we are going to have to look further at this question of the fifth amendment aspect of the disclosure requirement. Certainly it doesn't apply to any disclosure of requests for information but whether it applies to disclosure of compliance with boycott procedures, that troubles me somewhat.

I think the gentleman has made a very forceful statement and I want to commend him for it and for his leadership in this field.

Chairman MORGAN. Mr. Rosenthal.

Mr. ROSENTHAL. I want to commend my colleague from New York for his customary first-rate statement. It is a pleasure to see him before the committee.

Chairman MORGAN. We will take another 10-minute recess.

[A brief recess was taken.]

Chairman MORGAN. The committee will please come to order.

Our next witnesses will be a panel representing three private groups. The panel is composed of Mr. Hyman, representing the American Jewish Committee; Will Maslow, representing the American Jewish Congress, and Seymour Graubard, representing the Anti-Defamation League of B'nai B'rith.

You have some other guests with you. Mr. Brody, of course, is known by every member of the committee.

Mr. Hyman, we are going to let you leadoff.

STATEMENT OF LESTER S. HYMAN, CHAIRMAN, ENERGY COMMITTEE OF THE WASHINGTON CHAPTER OF THE AMERICAN JEWISH COMMITTEE

Mr. HYMAN. Thank you.

Mr. Chairman, members of the committee, my name is Lester S. Hyman, and I am a member of the executive board and chairman of the energy committee of the Washington chapter of the American Jewish Committee.

I am accompanied this morning by Mr. Samuel Rabmove, who is legal director of the American Jewish Committee, and Hyman Bookbinder, Washington representative of the American Jewish Committee.

I am very grateful, Mr. Chairman, for this invitation and opportunity to offer the views of the American Jewish Committee to your committee, and its inquiry into the effects of the Arab boycott and related discriminatory practices on the activities of individuals and institutions within the United States.

I would like to make a brief statement which will take no more than 10 minutes.

IMPACT OF THE BOYCOTT

The American Jewish Committee, founded in 1960 to protect the civil and religious rights of Jews, has always believed that the freedom and security of American Jews are inseparably linked with the freedom and security of Americans of all faiths and races. Hence, we do not view the ongoing Arab economic warfare against Israel and against all those who choose to deal with that country as a Jewish issue, but rather as both an actual and a potential threat to all Americans. Indeed, the Arabs have made "no bones" about the purpose and scope of their campaign. It is designed to cripple any company which has the temerity to do business with Israel and which the Arabs select as a target. Miles Laboratories, for example, a large non-Jewish pharmaceutical company, has been blacklisted by the Arab League for the past 11 years, though it has managed to prosper nevertheless.

Let it be said at the outset that the American Jewish Committee has no objections whatever to normal trade and commerce between American and Arab companies, or to Arab investment in the United States. But the boycott is a moral outrage. We do object most strenuously to the blatant attempts by the Arab nations to impose their fanatical policy, clearly intended to strangle Israel economically, on American companies and, a fortiori, to the capitulation by many American companies to Arab demands. In the words of the Washington Post editorial (January 26, 1975): "American participation in the boycott * * * is a standing reproof to the values of the United States."

ANTIBOYCOTT ACTION BY CHRISTIAN GROUPS

That Arab economic warfare is not of concern solely to American Jews is underscored by a recent action of a consortium of American Christian groups. The Forum for Investment Responsibility, an association of New York churches, seminaries, and judicatories, concerned with the responsible use of church financial resources, addressed the chief executive officers of 90 corporations and leading law and accounting firms. They wrote:

As Churchpeople, investors, and fiduciaries, we believe that such practices (boycott and anti-Jewish discrimination) are not only morally reprehensible but substitute short-term economic gain for the company's long term strength. It is very difficult for a firm to ignore fundamental human values by practicing discrimination and still serve the best interest of its shareholders. We feel that those of us in the business community should be alert to the possibility of anti-Semitic practices creeping into the hiring and advancement of personnel as well as into the intraoffice relationships of staff employees. We would appreciate your assurance that such practices do not occur in your firm. This will strengthen our confidence in the practice of your corporation and serve as an example to other firms which engage in anti-Semitic practices.

ECONOMIC IMPACT OF ANTIBOYCOTT MEASURES

Yet we often hear it said these days that we must not antagonize the Arabs by resisting their boycott or discrimination demands; that if the United States were foolhardy enough to say "no" to them on this issue, they would surely take their burgeoning petrodollars elsewhere, to our very substantial detriment. The facts, however, do not bear out these apprehensions.

The Arabs are testing the will of the United States, we believe, and, if they were to encounter a solid front of legal and moral resistance to their discriminatory restrictions, in all probability they would back down because they badly need what the United States has to offer—weapons, food, technology, educational, and medical assistance, et cetera—and they cannot get these elsewhere, at least not of the quality they seek, and they well know this. As noted by Walter Guzzardi in an article, "That Curious Bearer on the Arabs' Frontiers," Fortune, July 1975:

The Arabs are eager for economic development and many companies already established in Arab lands are contributing to that goal. To expel them in the name of the boycott would be to defeat the Arabs' own larger purposes. So exceptions galore: Hilton International operates hotels in Kuwait, Egypt, and Abu Dhabi—and in Tel Aviv and Jerusalem. IBM has plants in three Arab countries and in Israel; Olivetti has agents in twelve Arab nations as well as Israel.

Just 9 days ago the Wall Street Journal, a publication not usually noted for its sentimentality, editorialized as follows:

Arab governments should be told that American businessmen will not be allowed to do the work of enforcing the boycott, either by discriminating against Jewish personnel or by refusing to deal with other companies solely because of connections with Israel. Arab economic officials are no fools; they prefer American technology, they have already built large American contracts into their development plans, and they are not going to disrupt their progress in a futile attempt to warp our traditions.

U.S. SOVEREIGNTY

Business realities aside, there is an even more compelling reason why the United States should toughen its stand against the Arab boy-

cott. This reason, as Congressman Koch so eloquently testified, is a matter of basic principle. Why, after all, should U.S. national policy of opposing boycotts imposed by foreign countries against countries friendly to the United States, as set forth in the Export Administration Act, have to "play second fiddle" in the orchestra of a U.S. corporation to the national policy of any foreign government? Clearly, the business done by American companies with the Arab nations is of benefit to those nations, as well as to the United States.

As expressed by Prof. Lawrence Velvel, a specialist in antitrust law at Catholic University Law School, in the Wall Street Journal of January 27, 1976:

> If American jurisdiction were not to prevail when American boycotters have wreaked harm on our domestic or foreign commerce, then the United States will have relinquished a significant sovereign right: The right to prescribe the rules under which its citizens conduct American businesses.

IMPACT OF STATE ANTIBOYCOTT LAWS

Although antibyocott laws have recently been enacted in Illinois, New York, and Maryland, and several other States have been considering similar legislation, resistance to such measures on the State level has been growing. The chief reason for this opposition is that the States which impose such restrictions may find themselves economically disadvantaged in relation to States which elect to tolerate boycott practices.

A far better remedy would be Federal antiboycott legislation which we are here to support today.

For example, New York State transportation commissioner Raymond Schuler declared last April at a public hearing, "This is a national issue and should be addressed in the framework of a national law."

In this connection, I would like to cite an experience from my own law practice where a client was asked to participate indirectly in a boycott so long as the action requested of them was not prohibited by law. They were giving serious consideration to compliance. But when we came up with a State law that expressly forbade the particular conduct being contemplated, my client was delighted. They went to the country imposing the boycott and said: "Our hands are tied; we have no choice; this is law; and we must obey it." The boycotter respected this view and my client is still doing business with them.

FEDERAL ANTIBOYCOTT MEASURES

So we suggest that American business will really be aided by a Federal antiboycott law.

On February 6, the Senate Committee on Banking, Housing, and Urban Affairs reported favorably on S. 953 to strengthen the antiboycott provisions of the Export Administration Act, in part, as follows:

> The Committee recognizes that the Arab states regard their boycott efforts as part of their continuing struggle against Israel. The Committee also recognizes that the use of economic measures as a weapon in the Middle East struggle is likely to continue until there is a permanent political settlement. The Committee is aware that primary boycotts are a common, although regrettable, form of international conflict and that there are severe limitations on the ability to outside parties to bring such boycotts to an end. However, the Committee strongly believes that the United States should not acquiesce in attempts by foreign gov-

ernments through secondary and territory boycotts to embroil American citizens in their battles against others by forcing them to participate in actions which are repugnant to American values and traditions.

That sums it up most eloquently. The American Jewish Committee concurs. We therefore urge the enactment of comprehensive Federal legislation to prohibit compliance by American firms which are blacklisted by the Arabs. We urge favorable consideration of S. 953 and the House counterpart, H.R. 11463, and of the strengthening amendments offered by Representative Ben Rosenthal of New York.

We also recognize the excellent legislation that has been proposed by Congressman Bingham, H.R. 4967, and some of the other approaches such as that described by Congressman Drinan this morning.

We are most appreciative to all of these Members of Congress for their legislative initiatives, all of which we now feel have hopefully contributed to final and constructive congressional action.

Thank you, Mr. Chairman.

[Mr. Hyman's prepared statement follows:]

PREPARED STATEMENT OF LESTER S. HYMAN, CHAIRMAN, ENERGY COMMITTEE OF THE WASHINGTON CHAPTER OF THE AMERICAN JEWISH COMMITTEE

My name is Lester S. Hyman, and I am a member of the Executive Board and Chairman of the Energy Committee of the Washington Chapter of the American Jewish Committee. I am very grateful, Mr. Chairman, for this invitation and opportunity to offer the views of the American Jewish Committee to your Committee and its inquiry into the effects of the Arab boycott and related discriminatory practices on the activities of individuals and institutions within the United States.

The American Jewish Committee, founded in 1906 to protect the civil and religious rights of Jews, has always believed that the freedom and security of American Jews are inseparably linked with the freedom and security of Americans of all faiths and races. Hence, we do not view the ongoing Arab economic warfare against Israel and against all those who choose to deal with that country as a Jewish issue, but rather as both an actual and a potential threat to all Americans. Indeed, the Arabs have made no bones about the purpose and scope of their campaign. It is designed to cripple any company which has the temerity to do business with Israel and which the Arabs select as a target. Miles Laboratories, for example, a large non-Jewish pharmaceutical company, has been blacklisted by the Arab League for the past eleven years, though it has managed to prosper nevertheless.

Let it be said at the outset that the American Jewish Committee has no objections whatever to normal trade and commerce between American and Arab companies or to Arab investment in the United States. But the boycott is a moral outrage. We do object most strenuously to the blatant attempts by the Arab nations to impose their fanatical policy, clearly intended to strangle Israel economically, on American companies and, *a fortiori*, to the capitulation by many American companies to Arab demands. In the words of the Washington Post editorial (January 26, 1976), "American participation in the boycott . . . is a standing reproof to the values of the United States."

That Arab economic warfare is not of concern solely to American Jews is underscored by a recent action of a consortium of American Christian groups. The Forum for Investment Responsibility, an association of New York churches, seminaries, and judicatories concerned with the responsible use of Church financial resources, addressed the chief executive officers of ninety corporations and leading law and accounting firms. "As Churchpeople, investors, and fiduciaries," they wrote, "we believe that such practices (boycott and anti-Jewish discrimination) are not only morally reprehensible but substitute short-term economic gain for the company's long term strength. It is very difficult for a firm to ignore fundamental human values by practicing discrimination and still serve the best interest of its shareholders. We feel that those of us in the business community should be alert to the possibility of anti-Semitic practices creeping into the hiring and advancement of personnel as well as into the intraoffice

relationships of staff employees. We would appreciate your assurance that such practices do not occur in your firm. This will strengthen our confidence in the practice of your corporation and serve as an example to other firms which engage in anti-Semitic practices."

Yet we often hear it said these days that we must not antagonize the Arabs by resisting their boycott or discrimination demands, that if the United States were foolhardy enough to say "no" to them on this issue, they would surely take their burgeoning petro-dollars elsewhere, to our very substantial detriment. The facts, however, do not bear out these apprehensions.

The Arabs are testing the will of the United States, we believe, and, if they were to encounter a solid front of legal and moral resistance to their discriminatory restrictions, in all probability they would back down because they badly need what the United States has to offer—weapons, food, technology, educational and medical assistance, etc.—and they cannot get these elsewhere, at least not of the quality they seek, and they well know this. As noted by Walter Guzzardi in an article, "That Curious Bearer On The Arabs' Frontiers," Fortune (July 1975):

"The Arabs are eager for economic development and many companies already established in Arab lands are contributing to that goal. To expel them in the name of the boycott would be to defeat the Arabs' own larger purposes. So exceptions galore: Hilton International operates hotels in Kuwait, Egypt, and Abu Dhabi—and in Tel Aviv and Jerusalem. IBM has plants in three Arab countries and in Israel; Olivetti has agents in twelve Arab nations as well as Israel."

In a document published last August by Mitchell, Hutchins Inc., a widely respected investment banking and management company, entitled "OPEC Expenditures: Size, Timing, Nature and Beneficiaries," the following assessment appears:

"Despite anti-American sentiments in some of the Near and Middle East countries through the past decade and sharp Japanese and European competition, there is a marked preference for American products. United States products are often the standard by which all other industrial machinery, transport equipment and consumer durable goods are evaluated."

Just nine days ago the Wall Street Journal, a publication not usually noted for its sentimentality, editorialized as follows:

"Arab governments should be told that American businessmen will not be allowed to do the work of enforcing the boycott, either by discriminating against Jewish personally or by refusing to deal with other companies solely because of connections with Israel. Arab economic officials are no fools; they prefer American technology, they have already built large American contracts into their development plans, and they are not going to disrupt their progress in a futile attempt to warp our traditions."

Business realities aside, there is an even more compelling reason why the United States should toughen its stand against the Arab boycott. This reason, is a matter of basic principle. Why, after all, should U.S. national policy of opposing boycotts imposed by foreign countries against countries friendly to the U.S., as set forth in the Export Administration Act, have to "play second fiddle" in the orchestra of a U.S. corporation to the national policy of *any* foreign government? Clearly, the business done by American companies with the Arab nations is of benefit to those nations, as well as to the United States.

As expressed by Professor Lawrence Velvel, a specialist in anti-trust law at Catholic University Law School, in the Wall Street Journal of January 27, 1976:

"If American jurisdiction were not to prevail when American boycotters have wreaked harm on our domestic or foreign commerce, then the U.S. will have relinquished a significant sovereign right: the right to prescribe the rules under which its citizens conduct American businesses."

Although anti-boycott laws have recently been enacted in Illinois, New York and Maryland, and several other states have been considering similar legislation, resistance to such measures on the state level has been growing. The chief reason for this opposition is that the states which impose such restrictions may find themselves economically disadvantaged in relation to states which elect to tolerate boycott practices. A far better remedy, of course, would be Federal anti-boycott legislation. For example, New York state transportation commissioner Raymond Schuler declared last April at a public hearing, "This is a national issue and should be addressed in the framework of a national law." His view was echoed subsequently by James R. Kelly, Director of the World Trade Division of

the Delaware River Port Authority, who said that he favored tight Federal legislation against trade discrimination such as the Arab boycott, as well as by Maryland Port Administrator Joseph L. Stanton, who has actively urged support for a Federal anti-boycott law.

On February 6th the Senate Committee on Banking, Housing and Urban Affairs reported favorably on S. 953 to strengthen the anti-boycott provisions of the Export Administration Act, in part, as follows:

The Committee recognizes that the Arab states regard their boycott efforts as part of their continuing struggle against Israel. The Committee also recognizes that the use of economic measures as a weapon in the Middle East struggle is likely to continue until there is a permanent political settlement. The Committee is aware that primary boycotts are a common, although regrettable, form of international conflict and that there are severe limitations on the ability of outside parties to bring such boycotts to an end. However, the Committee strongly believes that the United States should not acquiesce in attempts by foreign governments through secondary and tertiary boycotts to embroil American citizens in their battles against others by forcing them to participate in actions which are repugnant to American values and traditions."

That sums it up most eloquently. The American Jewish Committee concurs. We therefore urge the enactment of comprehensive Federal legislation to prohibit compliance by American firms with Arab demands to boycott Israel as well as other American firms which are blacklisted by the Arabs. We urge favorable consideration of S. 953 and of the strengthening amendments offered by Representative Ben Rosenthal of New York. We take this opportunity, furthermore, to express our appreciation to other members of the Congress for their respective legislative initiatives which we now feel hopeful will have contributed to final Congressional action.

Chairman MORGAN. Thank you.

Mr. Maslow.

STATEMENT OF WILLIAM MASLOW, GENERAL COUNSEL, AMERICAN JEWISH CONGRESS

Mr. MASLOW. With your permission I would like to file a copy of my testimony and instead focus on some of the issues which seem of concern to the committee members present.

Chairman MORGAN. Without objection it is so ordered.

DIPLOMATIC EFFORTS TO END THE BOYCOTT

Mr. MASLOW. I want to address myself first to the question of the efficacy of diplomatic efforts. I have read Secretary Simon's statements and had the pleasure of a conference with him months ago on this problem.

Now the administration has been engaged in these diplomatic efforts at least since 1965 and the result has been a dismal failure. It would not be bad if they really tried but far from trying we see disingenuous approaches.

When Secretary Simon says on page 10 of his statement that he had conversations with leaders of Arab Governments, including Saudi Arabia, and had a meeting with the United States-Saudi Arabian Joint Commission, and the Saudi Arabian Government disavowed any racial or religious discrimination, he is misleading the Amercan public, because Saudi Arabia has not abandoned a policy of denying visas to Jews. Neither has Kuwait abandoned such a policy.

And if that is a measure of the Secretary's diplomatic efforts we are not going to get very far in enforcing the basic policy of our statute.

I am sorry to say that other departments of our Government have been equally ineffective in pursuing these displomatic efforts.

ANTI-JEWISH ASPECT OF THE BOYCOTT

The Commerce Department had spent its time in attempting to influence the Congress against any extension at all of the boycott provisions, arguing again disingenuously, that the Arab boycott is a political act. The Arab boycott is much more than a political program. It is also a program which is aimed at what the boycott regulations call Zionist supporters and which turn out in the last analysis to be Jews.

When Kuwait in February 1975 refused to be partners in a European banking syndicate, because of the participation of Lazard Freres and Rothschild Co., they were not refusing because these banking houses are Zionist supporters. They refused to participate because they were Jews.

When the Department of Commerce tells us that there is no anti-Jewish motivation in the boycott, all I can do is refer you to Business International, a well-known business consulting firm which publishes material on business prospects in the Middle East. I am reading from their April 1975 report entitled "Business Prospect in the Middle East", in which they give a checklist of the boycott rules, and item No. 10 is "indulge in Zionist activities."

We know how difficult it is for Arab lands to distinguish between Zonism and racism. It is equally difficult for them to distinguish between Zionists and Jews.

CERTIFICATION OF GOODS

One of the questions asked, I think by Congressman Solarz, was whether or not American companies are issuing certificates not only about the origin of the goods or the vessels upon which they are carried, but also whether or not they are issuing certificates reciting in effect that they are not dealing with blacklisted suppliers.

I may be able to give you some personal knowledge about this problem. My information derives from a project which my organization, the American Jewish Congress, initiated about 6 months ago in which we submitted a shareholder resolution dealing with the Arab boycott on behalf of shareholders to 140 major American companies, companies whose names are household words, Exxon, Texaco, General Motors, et cetera. In the course of those negotiations, I had the opportunity to sit face to face with top management to discuss the anatomy of the boycott. A short answer, therefore, to Congressman Solarz is that the certifications dealing with blacklisted vessels are widespread. Not only are they widespread, but when we asked the companies to desist from such practices they refused.

They said if we abandon these certifications the Arab companies will only turn to our competitors.

The only way we can deal with such a problem is by an American law which would prevent the company from issuing such certificates.

When President Ford issued his directive of November 20, 1975, which was aimed almost exclusively at violations of boycott regulations which entailed discrimination because of race or religion, you could almost hear the sigh of relief from American companies because now they could tell their Arab customers we can't give you any certificates or we can't make any promises about discrimination based upon religion or Zionist supporters because now that is illegal.

I suggest that you will find similar support from a large segment of American business when you strengthen their hands by enactment of legislation dealing with the boycott.

PROHIBIT BOYCOTT COMPLIANCE AND/OR DISCLOSURE

I want to address myself to another question which seems to be of concern, and that is the question of whether it is sufficient, as the Senate bill seems to do, to limit the law to reporting requirements or whether, as some of the House proposals do, Congress should go beyond and actually prohibit.

I want to point out, first of all, that the existing Commerce Department regulations, those which were enacted after President Ford's directive, do both.

Section 369.2 is a regulation which forbids giving any certificates dealing with religion. The Commerce Department regulation requires that you submit your report but at the same time it instructs you that it is forbidden to issue such a certificate. Whereas, section 369.3 which relates to practices other than those based upon race or religion, merely requires reporting.

Now, with all due respect, I don't think that reporting alone is going to solve the problem. One of the greatest evils that we have encountered and about which this committee has heard testimony, is the use of discriminatory letters of credit by banks. Banks are not concealing the fact that they are processing letters of credit which contain discriminatory conditions.

These conditions refer not only to the origin of the goods or the means by which they are shipped; but also whether the suppliers or the American exporters are on the blacklist.

When there were hearings held in New York in February on the Lisa Act, there was sworn testimony by the banks, Chase Manhattan, Chemical, Irving Trust, First National City, et cetera, that they were processing these letters and they intended to continue to process them.

You are familiar, of course, with the directive issued by the Federal Reserve Board in which the Federal Reserve Board in an unparalleled statement declared to its member banks that it was a misuse of banking privileges for any bank to become even passively involved in the boycott regulations and specifically cited the processing of letters of credit as an instance of that.

Did that deter the American banks from continuing to process these letters?

On the contrary, they said in their sworn testimony they would continue.

Merely to require them to report, therefore, is going to be no great burden upon them; they will report and they will continue.

You must certainly, as far as banks are concerned, prohibit the practice as well.

I think also we have gone far beyond reporting alone in other legislation. That is a very timid approach. If something is clear to policy, why don't we prohibit it? Why do we have to say report it and rely upon the force of public opinion to exert pressure against you?

The U.S. Government is not so weak and so puny that it has to rely upon private pressures to enforce its policies.

This statute has now been on the books since 1965 with no results at all.

ECONOMIC IMPACT OF ANTIBOYCOTT MEASURES

Finally, gentlemen, I would like to close with some reference to Secretary Simon's argument that we would lose a great deal of trade or American business would lose a great deal of trade if the U.S. Congress enacted mandatory legislation.

I again take as my source Business International, an agency management consulting company who seems to specialize in telling American business how they can live within the Arab boycott. In an issue of Business International dated May 21, 1976, it referred to Iraq. Iraq as you know is a country swimming in oil and swimming in petrodollars. It also is a country which is not recognized by the United States, it has a socialist economy and has close ties to Eastern Europe. You would expect, therefore, that the last country in the world that Iraq would be buying its goods from is America. On the contrary, most of the contracts being let by Iraq are now going to American companies.

That brings me to the peculiar nature of this Arab boycott list. It wasn't until Senator Church's committee published a copy of this Arab boycott list in the multinational corporations hearings that we ever had available in the United States a list of who was actually boycotted. We find out that not only is there no one list but that each country has its own list and these lists vary.

You ask yourself why is there this peculiar situation? If the Arab countries want to enforce a boycott, why don't they publish the list, why don't they agree upon a uniform list? The answer is they don't want too. They want to use the list when it serves their national interest and when it doesn't they pay no attention to it. Thus, we have the example of Saudi Arabia making contracts with companies on the Algerian blacklist and companies on the Saudi Arabian list have no difficulty in doing business with Algeria when they want to do so.

Ford Co. is on the Arab blacklist and before you begin to shed any tears about Ford, I should tell you that last year it did $50 million worth of business in the Arab lands. So the Arab boycott policy is not a unified monolithic position.

From my negotiations with almost 100 major companies, I have concluded that this boycott is a vast bluff, in which American companies allowed themselves to be intimidated and blackmailed.

If a law were enacted, they could tell the Arab customers we are sorry, if you want our technology, if you want our know-how, if you want our contracts, this is how it has to be.

This committee cannot, of course, affect the primary boycott. That is, if Arab countries do not want to deal with Israel, that is not a matter that this committee or this Congress can hope to do anything about. But you can prevent Arab blackmail and Arab boycotts from importing their bigotry in the United States and requiring American companies and American banks to enforce their boycott.

Thank you.

[Mr. Maslow's prepared statement follows:]

PREPARED STATEMENT OF WILLIAM MASLOW, GENERAL COUNSEL, AMERICAN JEWISH CONGRESS

The American Jewish Congress, a national membership organization now in its 60th year, urges the speedy enactment of effective Federal legislation to curtail the operations in the United States of the Arab Boycott. We come to that conclusion as a result of two years continuous study of that Boycott and unsuccessful efforts to counteract it by litigation and informal methods of persuasion.

In the last nine months, the American Jewish Congress has been conducting a nationwide stockholders' project designed to sensitize the top management of our major American corporations to the evils and dangers of the Arab Boycott. In the name and on behalf of hundreds of individual stockholders throughout the country, we submitted stockholder resolutions to 140 corporations on the Fortune 500 list, corporations whose names are household words: Exxon, General Motors, Texaco, Ford, Eastman Kodak, U.S. Steel, etc. Our resolution asked the companies to make a report to its shareholders on the extent of their business in Arab lands and the extent of their involvement in the Arab Boycott.

The immediate response of most of these companies was an offer to answer the detailed questionnaire contained in our resolution if we would withdraw the resolution and not press to have it included in the company's proxy materials distributed at its expense to all of its shareholders. As a result, we conducted a series of negotiations in which we explored the involvement in the Arab Boycott and the willingness of American corporations to issue a statement of policy hostile to the Boycott.

Our first major finding is that the main Federal anti-boycott statute, Sec. 2402(5) of the Export Administration Act, is a laughing stock among corporate America. That section, as you know, begins with this sweeping statement:

"It is the policy of the United States (a) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States."

But then follows the fudging language which emasculates the prior sentence "and (b) to *encourage* and *request* domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States" (emphasis added).

The Commerce Department regulations implementing this statute limit themselves in the same way. Regulation 369.3, which refers to restrictive trade practices and boycotts other than those based upon race, color or religion, provides that "all exporters . . . are *encouraged* and *requested* to refuse to take any action . . . that has the effect of furthering or supporting other restrictive trade practices or boycotts . . ." (Emphasis added.)

American businessmen are free to answer or reject this statutory encouragement and almost all of them reject these entreaties. Thus, our entire governmental posture towards the Boycott is one of pleading rather than command.

Last January, the Antitrust Division of the Department of Justice filed a civil complaint against Bechtel Corporation and its subsidiaries, which have dominated the Arab construction field for the last 30 years. Bechtel's answer to the government's complaint includes the defense that the Antitrust violations charged against it are not illegal because the Commerce Department regulations do not prohibit them (paragraph 7 of Answer).

Last December, President Ford directed the Commerce Department to amend its regulations so as to prohibit any American company from issuing any certificate to an Arab purchaser which would have entailed discrimination in the selection or assignment of employees or in the choice of suppliers because of their race or religion. One could almost hear the sigh of relief from American corporations. Now they could tell their Arab business associates that they could not possibly engage in anti-Jewish discrimination because it was prohibited by law. No Arab country or company could, hereafter, follow the example of Kuwait which, in February 1975, insisted successfully that Lazard Freres and Rothschild Company be dropped from an European underwriting syndicate because they were "Jewish firms." Unfortunately, the Ford administration refused to take any steps that would have outlawed American participation in other aspects of the Boycott, namely the discrimination against blacklisted American companies, e.g., Ford Motors, Xerox, RCA, etc. by those doing business with the Arabs or the blacklisting of those American companies which made investments in Israel or licensed Israeli firms. The protection afforded American businessmen in their refusal to discriminate on religious grounds was not extended to American businessmen who refuse similarly to discriminate against Israel or firms that do business in Israel.

The Boycott is able to operate easily and effectively in the United States because the major American banks have allowed themselves to become involved in its enforcement. They do so by agreeing to answer and honor letters of credit drawn by Arab purchasers which provide that no monies shall be paid out under these letters unless and until the American exporter furnishes proof to the American bank that it has complied with the Boycott regulations specified in the letter of credit. When we reproached American banks for this involvement in the Boycott they would answer: if we cease honoring these letters of credit other banks will accept them. Only when such involvement is made illegal can we safely tell our Arab customers that we can not honor them.

I would like to have shared with you the names of the banks and the officials of the banks who gave this information to me but when I asked permission to do so, they pleaded with me not to reveal their identity. Such disclosures they said would invite reprisals by their Arab customers. This is an illustration of the way—in the absence of legislation—American companies remain at the mercy of Arab blackmailers.

Indeed, this is the heart of our concern. We have found throughout the business community a willingness, even a desire, to challenge the Arab Boycott but businessmen one after the other have told us that they fear reprisals from their Arab customers. They have said to us time and again that they would be willing to defy the Arab boycott if only they were given some statutory authority to do so but in the absence of this protection even the largest American corporations, those with assets in the billions of dollars, are afraid to resist the boycott or even to take a public position against it for fear of business reprisals. Only the U.S. Government can get them to express their true views.

New York State recently enacted a law, the LISA Act, which forbids certain acts of compliance with Arab Boycott. At once there were shrieks from New York shipping associations, freight forwarders and Chambers of Commerce that the New York law would drive business out of the state into other states where there was no anti-boycott legislation. However exaggerated and specious this claim is, the fact remains that if a Federal law is enacted all American businessmen will comply with it and there will be no danger of business fleeing from one state to more hospitable climates elsewhere.

The argument is often made that forbidding compliance with the boycott will result in huge losses of business by American companies. We doubt it. Those who enforce the Arab boycott were quite pragmatic. We know of an American company that sells military equipment to Israel, clearly the most flagrant and heinous violation of the Boycott regulations, but has not been put on the boycott blacklist because some Arab countries wish to buy its products. Chase Manhattan has for many years been the fiscal agent for Israeli bonds, a clearcut violation of the boycott, but it has never been blacklisted. Why? Because the Arabs need it. Hotel chains, like Hilton and Sheraton, manage hotels in both Arab lands and Israel and the boycott regulations are stretched to allow enterprises. Ford Motor Company was placed on the blacklist because it established

a small assembly plant in Israel to assemble machines for the Israeli market. Its sales last year to Arab lands amounted to $50 million.

It is noteworthy that each Arab land has its own blacklist and they often differ. Algeria buys materials from an American company on the Saudi Arabian blacklist, while Saudi Arabia buys from an American company on the Algerian list. The Arab League is not a monolith and Arab companies have always demonstrated that their national economic interests come first. Saudi Arabia is in the midst of developing a huge construction program. Who is running this program for them, drafting specifications for bids, selecting contractors, supervising work: The U.S. Corps of Engineers. Saudi Arabia is also establishing two giant universities whose technical assistance is indispensable to their project: The educational specialists of the Department of Health, Education, and Welfare.

American companies are awarded Arab contracts because their goods and services are better, cheaper and more reliable than those Arab countries can buy elsewhere. They will continue to be selected even when American law forbids American companies to become even passively involved in the boycott.

The legislation under consideration in the Senate and the House does not and can not deal with the primary boycott of Arab lands against Israel. Arab lands are free to refuse to buy Israeli goods or to deal with Israeli firms. The legislation we seek will not and can not compel them to abandon their primary boycott against Israel but it can and should forbid American participation in the secondary and tertiary boycotts directed against American companies who do business in Israel or who are directed by "Zionist supporters."

Chairman MORGAN. Thank you.

Mr. Graubard.

STATEMENT OF SEYMOUR GRAUBARD, NATIONAL CHAIRMAN, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

Mr. GRAUBARD. Mr. Chairman, my name is Seymour Graubard, and I am national chairman of the Anti-Defamation League of B'nai B'rith. Bearing in mind your request for brevity, may I make a few remarks requesting that our full statement, together with the exhibits, be incorporated in the record.

Chairman MORGAN. Without objection it is so ordered.

Mr. GRAUBARD. I might note, sir, that the statement does contain some interesting and valuable legislative background as well as administrative background, and some facts which supplement what you have already heard.

DISCLOSURE AND SELF-INCRIMINATION

I would now like to turn to a question that was raised initially by Mr. Solarz and then by Mr. Bingham in regard to the constitutional protection of firms that would be called upon to file reports as to whether or not they adhered to the boycott.

I refer the committee to a memorandum of law—and, Mr. Chairman, you were so right, there are lawyers here who are prepared to answer these questions. We filed the memorandum with the Subcommittee on International Finance of the Committee on Banking, Housing and Urban Affairs of the Senate in connection with hearings held July 22 and 23, 1975. The memorandum of law is printed on pages 195 and 196. We show with citation of applicable Supreme Court

decisions that the privilege against self-incrimination does not apply to corporations.

Were an individual asked to state whether or not he complied with the provisions of law, which contain criminal penalties, he might decline to do so on the ground it might incriminate him. But as far as the corporations are concerned, and I think 99.99 percent of all these exports come from corporations, we would have no problem in regard to the constitutional prohibition. I would like to offer a copy of the memorandum for the record.[1]

I might add, as you are all familiar, the SEC has recently held hearings in regard to "corporate gifts" to various people overseas, in connection with their corporate business—matters which might involve criminal penalties.

But because the donors were corporations the issue of self-incrimination did not arise in the questions posed by the SEC.

EXTRATERRITORIAL APPLICATION OF U.S. LAW

Another comment in regard to the question that Mr. Bingham raised, and that is what is the authority of a holding company or a parent company in the United States over the acts of its subsidiaries abroad.

I have had personal experience with that. From time to time the United States has had official boycotts, as in regard to Cuba, and I recall not many years ago a corporation I represent with a subsidiary in Canada got into a conflict. It refused to allow its subsidiary in Canada to export to a nation that was then on the prohibited list of our own Government. The Canadian Government, becoming aware of this, made a representation to the United States stating that the corporation that existed in Canada under Canadian laws was subject to Canadian jurisdiction and would have to comply with Canadian laws.

Canada at that time had no equivalent of the U.S. boycott against that nation, and it ended up with the United States saying to the parent corporation we must recognize the fact that you have no authority in regard to this Canadian subsidiary, and that the subsidiary must act pursuant to Canadian law.

I might say, sir, that this question arose in connection with Congressman Drinan's bill, and I think that you can cope with the question of the foreign subsidiary of an American parent corporation by putting in an appropriate phrase or sentence making an exclusion in regard to compliance with the laws of a nation in which that foreign subsidiary is operating.

Mr. SOLARZ. Mr. Chairman——

Mr. GRAUBARD. A further comment——

Mr. SOLARZ. Mr. Chairman, I had an appointment 15 minutes ago. I wonder if I can ask unanimous consent to put one question to the witness before I leave.

Chairman MORGAN. Any objection to the request of the gentleman from New York?

The Chair hears no objection.

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[1] The memorandum referred to is found in appendix 9, p. 718, also see Library of Congress study appendix 10, p. 719.

DISCLOSURE OF BOYCOTT COMPLIANCE

Mr. SOLARZ. If your analysis of the constitutional problems we talked about earlier is correct and there is no difficulty in requiring a corporation to disclose whether or not it has in effect violated a provision of American law, could you tell us what advantages there are in requiring someone to disclose whether or not they complied with the boycott if compliance with the boycott has previously been prohibited? I assume everybody will say they don't comply.

Mr. GRAUBARD. I don't know what they would say. But the fact is that you have such a simple instrument for obtaining compliance with the law by way of reference to the answers that are given that I think one should hesitate before giving it up. You cannot easily get perfection in compliance with any law. I think that Members of Congress well know that. But here you have a ready made tool at hand. Why surrender it?

Mr. SOLARZ. Thank you.

CORPORATE SUPPORT FOR NATIONAL ANTIBOYCOTT MEASURES

Mr. GRAUBARD. I have personally had conversations with a number of heads of the largest corporations in the United States, many of them told me what the chairman of the board of IBM told me when I raised this question of the boycott.

Oh, he said, yes, we had a request a couple of years ago from I forget which Arab nation, it came up to me through channels, and I said no, and he said now that I think of it we haven't lost any Arab business since that time.

The same story is true of others.

I have also met with the heads of some of the largest banks of our country in connection with letters of credit containing boycott conditions, and they said we would rather not negotiate this paper, it is a nuisance, it clogs up our files and we don't like it anyway. Why can't Congress pass a law saying that these documents should not be permitted and we would gladly forego the practice of participating in a boycott against our wishes.

I asked everyone why don't you come forward and testify before the appropriate committees, and just as though they had rehearsed it I got the answer, "Well, if I did that for my bank I might lose business and my competitors would get the business."

Gentlemen, you can put these big bankers at ease if you adopt appropriate legislation barring these banking documents which further the boycott. They will thank you for this.

Finally, I would like your consent, Mr. Chairman, to have Mr. Brody make a few comments about the testimony of Secretary Simon, since he was here yesterday and heard Mr. Simon.

[Mr. Graubard's prepared statement follows:]

PREPARED STATEMENT OF SEYMOUR GRAUBARD, NATIONAL CHAIRMAN, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

Mr. Chairman, Members of the Committee, my name is Seymour Graubard and I am National Chairman of the Anti-Defamation League of B'nai B'rith. I am accompanied this morning by Mr. Justin Finger, Assistant Director of the League's Civil Rights Division, Mr. David Brody, its Washington representative, and Mr. Meyer Eisenberg, a member of its National Commission.

We appreciate, Mr. Chairman, your invitation to appear before this body to present our views on the pending legislation to amend and strengthen the anti-boycott provisions of the Export Administration Act.

The genesis and history of the Arab boycott are well known to this Committee. It was instituted in 1945 in an attempt to thwart the establishment of Israel and has been continued since 1948 with the avowed objective of strangling Israel economically. It is an elaborate mechanism with voluminous rules and regulations which is operated by a central Boycott Office headquartered in Damascus, Syria.

Mr. Chairman, I offer at this time as an Exhibit the Rules of the Boycott Office, along with the following:

1. The Laws relating to the Boycott of Israel of the United Arab Emirates, including Abu Dhabi,
2. The law of Egypt.
3. The law of Iraq.
4. The law of Jordan.
5. The law of Kuwait, and
6. The law of Saudi Arabia.

The Arab boycott must be seen as multi-dimensional; its prohibitions against American contractors or subcontractors doing business with Israel are intertwined with religious discrimination against American Jews.

The limited Administration actions against the boycott that have been taken over the past year and a half deal primarily with its anti-Jewish component. The

boycott's anti-Israel component -- for example, the use of Arab trade pressures to force American firms to avoid commercial relations with Israel, or to refuse to deal with other American firms which are blacklisted -- has received scant attention from the Executive Branch. This facet of the boycott, which often pits American firms against other American firms merely to further the aims and objectives of foreign powers against a nation friendly to the United States, is similarly obnoxious and immoral.

This Committee has before it several bills which would prohibit American business from compliance with various aspects of the anti-Israel component.

We urge passage of such legislation.

It is worth recalling at the outset the history of the anti-boycott provision, Section 3(5) of the Export Administration Act. Though phrased in general terms, the legislation was directed primarily at the attempt of the Arab countries to involve American business in their Middle East war by threatening them with economic loss if they dealt with Israel. As originally introduced in 1965, the bill would have prohibited compliance with boycott requests. The Bill was identical to H.R. 4967, introduced by Mr. Bingham, now before this Committee. Indeed, Congressman Bingham was a sponsor of the original bill, back in 1965.

Although in 1965 the House Banking and Currency Committee reported out the bill in the form of a statement of policy only, 17 of the 33 members declared their intention to introduce an amendment on the floor to prohibit compliance with boycott requests. The amendment, offered by the ranking Republican member of the Committee, William J. Widnall, was rejected and the House adopted the present version of the law which merely "encourages and requests" non-compliance.

Significantly, the failure to enact an outright prohibition on compliance was largely due to the position taken by the Department of State and Commerce, which, while deploring the boycott of Israel, urged that flexibility be permitted in dealing with it. Referring to the House-passed bill and to

legislation which would prohibit compliance with boycott requests, then-Secretary of Commerce John T. Connor, testifying before the Senate Banking and Currency Committee on June 10, 1965, stated:

"...We still think that either one of these proposals is undesirable from the point of view of the foreign relations of the United States and also from the point of view of its effect on many U.S. manufacturers and other trading organizations...

"However, if it is the wish of Congress that there be some such expression of policy, and some requirements that the Executive Branch issue regulations. we would prefer the provision that is in the House-approved bill to the absolute prohibition." (Hearing H.R. 7105 and S. 1896 to extend and amend the Export Control Act of 1949).

Spokesmen for the Administration at that time said "Let us rely upon diplomacy and friendly persuasion."

The Administration's indifferent attitude toward any anti-boycott legislation has, unfortunately, pervaded the enforcement and implementation of the Act since the very beginning.

In 1965 Congress clearly intended that enactment of the Export Administration Act should provide a legal and statutory basis enabling the President to use his authority to curtail exports in order to cope with the boycott. The legislation, said the House Committee on Banking and Currency in its report (H. Rpt. 434, 89th Congress, First Session) "will furnish the Administration with clear legal authority to protect American business firms from competitive pressures to become involved in foreign trade conspiracies against countries friendly to the United States."

However, not once since the statute was enacted has an Administration used its authority to curtail exports in order to cope with the boycott. While the

Committee and the Congress intended to give the Executive "flexibility" in dealing with the boycott, and did not intend to "tie the hands of the Administration by making any particular course of action mandatory," Congress did not envisage that this authority would never be used.

And this attitude prevails to this day. For another example, the Act provides for Regulations to be issued by the Commerce Department to implement its provisions. For years the Regulations provided only that exporters receiving boycott requests report this fact to the Department of Commerce. After persistent demands from members of Congress and organizations such as the Anti-Defamation League, the Regulations were amended in October of last year so that it became mandatory for the exporter to report whether he intended to comply with the boycott request. It was only then that the reporting requirements were also extended to cover banks and other service organizations.

Only since March of 1975 was there any more than indifferent enforcement by the Department of Commerce of even the reporting Regulations then existing. Since May of last year, six firms have been charged, and four found guilty, with failure to report boycott requests (the remaining two cases are pending); 226 additional firms, being considered first-offense cases, have been "warned" for failure to report.

Indeed, until late November of 1975 the Department of Commerce was actually engaged in furthering Arab boycott practices by its dissemination to American firms of tender offers containing boycott restrictions. Not until after the Anti-Defamation League brought suit in September 1975 against the Department did it agree to discontinue this practice; most recently, as a further outgrowth of the same lawsuit, the Department has now agreed to make public the names of those firms charged with failure to report boycott requests.

Administration spokesmen consistently state their view of the Arab boycott problem as involving two separate issues.

One consists of Arab pressures on U.S. firms to discriminate against American Jews.

The other, as Charles W. Hostler of the Department of Commerce testified in March of 1975, is a "long-standing system of economic sanction applied by Arab League countries against certain types of business relationships undertaken by U.S. firms with Israel." Spokesmen for the Departments of Commerce, State, Treasury and Justice have repeatedly made this distinction.

The new Export Administration Regulations, while prohibiting compliance with requests for religious discrimination, merely "discourage" American firms from complying with anti-Israel boycott conditions. And the presidential anti-boycott package announced in November 1975 dealing with federal agencies, federal contractors and banks is similarly directed at the anti-Jewish component.

Virtually the only significant anti-boycott action of the Executive Branch has been the Justice Department's anti-trust suit against Bechtel Corporation, and some newspapers reported the opposition of the Department of State to this action.

Administration spokesmen have consistently opposed effective anti-boycott measures. One claim made is that the boycott represents "political activity" by the Arab States. This argument disregards the powerful and negative impact the boycott has had on American firms and citizens. An analysis by the Moss Subcommittee, for example, shows that during the period between January 1, 1974 and December 5, 1975, 631 firms filed boycott request reports covering sales totalling about $800,000,000. And from October 1, 1975, when reporting of intent to comply became mandatory, till December 5, 1975, 91% of firms indicated intention to comply.

Based on the several hundred warning letters sent by the Department of Commerce, obviously many more firms have complied with the boycott but simply failed to report.

That the Administration's actions, limited as they are to the component of religious discrimination, will have a negligible impact on Arab boycott practices is made clear by a startling fact admitted by then-Undersecretary of Commerce Baker in his December testimony. He revealed that "since the inception of the boycott reporting requirement in 1965, over 50,000 transactions involving a boycott-related request have been reported. Of these, only 25 instances have been reported where the request apparently involved [religious] discrimination."

Mr. Hostler of Commerce argued that "American firms should not be restricted in their freedom to make economic decisions based on their own business interests, where no element of ethnic or religious discrimination in violation of U. S. law is involved". (Curiously, Commerce seems to feel that while American firms may properly have forced upon them business restrictions by foreign powers, it would be improper for United States law to restrict American firms' compliance with the boycott.)

The argument that anti-boycott measures would jeopardize peace negotiations in the Middle East has also been consistently invoked by the State and Commerce Departments in opposing the anti-boycott legislation. Gerald L. Parsky, speaking for the Department of the Treasury, stated in March, 1975 that "a peace settlement is the best way to bring a definitive end to the Arab boycott." Mr. Baker foresaw serious adverse impact on the American economy and a dire loss of significant trade benefits if the Arab countries interpreted more restrictive U. S. anti-boycott legislation as an anti-Arab action. He went so far as to say that the passage of H.R. 4967, the Bingham bill, could "cripple the United States effort to bring about a fair settlement of the conflict in the Middle East." "The only way to bring this boycott to an end," Mr. Baker added, "is to achieve such a fair settlement."

This argument is not new. In 1969 a Commerce Department spokesman, testifying before the Senate Banking Committee, opposed any change in the 1965 law, saying:

> "In addition, delicate foreign policy negotiations currently are under way to bring about a viable settlement of the fundamental dispute between Israel and the Arab states."

A State Department spokesman at that time repeated the same refrain, saying, "Mandatory legislation will be similarly regarded as one-sided, pro-Israel legislation at a time when we are trying to help bring about a settlement in the area."

We submit that more than a decade has passed without a resolution of the conflict. We cannot wait passively any longer for final peace in the Middle East before seeking to halt Arab coercion of American business firms.

A recent Washington Post editorial put it well -- "That Arab League states conduct their own trade boycott against Israel is their business...that Arab states should expect to enlist American firms to support the Arab boycott is, however, very different. The issue is that simple."

Instead of complying with the boycott, the Post editorial added What the [State] Department should be doing . . . is telling the United States' Arab friends that a deepening long-term relationship is only possible on the basis of mutual respect."

Legislation before this body would prevent American business firms from being used by the Arab countries in their war against Israel. Far from being "one-sided," the enactment of such legislation would make plain to the world that we do not want American business firms to be made pawns in fights between other nations, and that American business should be free from any foreign pressures in making decisions about whom they may wish to trade with.

The ADL revealed at a press conference in March of this year the names of a number of firms violating U. S. anti-boycott policy, including over 20 banks who also flout the warnings of the Federal Reserve Board issued last winter against boycott participation. As a result of our charges, a few of the business firms and banks announced changes of policy and some offered to announce their support for federal anti-boycott legislation. General Mills and Pillsbury, for example, have pledged to join ADL in support of such legislation. Others promising support are Bausch & Lomb, the First National Bank of Minneapolis and the First National Bank of Chicago. A number of other banks and businesses have informed us they will no longer comply with Arab boycott restrictions. These include Ametek, Inc., Rubatex Corp., Seal-O-Matic Dispenser Corp., Continental Bank of Philadelphia and Provident National Bank, also of Philadelphia.

The Marine National Exchange Bank of Milwaukee has told us it has written to a bank in the Arab world stating that it does not wish to receive letters of credit containing boycott provisions.

The importance of the letter of credit

in the boycott operation cannot be overemphasized. A typical example of such documents is one dated October 15, 1975, issued by the Rafidain Bank, Baghdad, Iraq, and addressed to the Bank of America. This requires an American firm, Marley International, Inc., of Mission, Kansas, as a pre-condition of payment, to obtain and present to the Bank of America certifications that the ship carrying the goods was not on the Iraqi government blacklist and that the manufacturer was not a "branch or a mother company of firms included in the Israeli boycott blacklist." I offer this document as an exhibit.

The business firms and banks which have expressed their opposition to the boycott and their desire to be free from its pressures deserve support. What they want and need is a legislative mandate prohibiting compliance by all. The reason for this need goes to the core of Arab boycott operations in the United States. The boycotters use the weapon of possible loss of Arab business to pressure American firms into compliance with boycott and blacklisting regulations. No American firm wants to place itself in a weak competitive position with another American firm in bidding for Arab trade. Such concern is understandable.

Today, if an American firm or bank voluntarily refuses to abide by Arab boycott restrictions, it fears a loss of its Middle Eastern market. On the other hand, the business enterprise which submits to Arab pressures will probably obtain the business. We have, therefore, an anomaly: the American firm which obeys the strictures of U. S. anti-boycott policy may be penalized by loss of business; the company which submits to the boycott, and, in doing so, violates American policy, profits.

When one firm, for the purpose of economic gain or advantage, complies

with boycott or other restrictive trade practices imposed or inspired by a foreign country against another country friendly to the United States -- or against other American firms because they do business with that friendly country -- such compliance is clearly immoral. It is immoral because it is unfair, discriminatory, and destructive of the open marketplace. There must be laws against it, just as there are laws against bribery. And lest this be objected to as "legislating morality," let us remember that it is precisely on the moral principles of fairness and equity that all existing regulatory laws rest.

It is necessary for firms wishing to stand up to the Arab boycott to be protected by making the prohibition on compliance universal throughout American business. It is also necessary that such prohibition be on a federal level in order to allay expressed fear in several states whose legislatures have enacted anti-boycott provisions that they will lose Arab business to other states which have not enacted such measures. The only way to surely protect all is to make compliance with the boycott universally prohibited throughout the United States.

Now let us address ourselves to the fears of the Department of Commerce that American trade in general will be hurt by the suggested legislation. Such fears

appear to be ill-founded. A perusal of the boycott regulations will show the Arabs apply their blacklist capriciously. As The New York Times commented in April, "the experts note that in business deals the Arabs have become highly sophisticated, examining comparative prices, quality and delivery terms more than the foreign policy of the supplier nations . . . even in their blacklist of concerns that have installations in Israel, the Arabs have recently taken a more flexible approach, in keeping with their needs to do business at the best terms. Both Egypt and Syria, Arab sources report, have brought forward proposals that companies could be removed from the blacklist if they contribute to the economic development of the Arab world to a greater degree than their involvement in Israel."

The same article discussed the fact that even though France has been cooperative with the boycott, its trade with the Arab nations has fallen behind West Germany, Italy, Sweden, the United States, and The Netherlands. West Germany, incidentally, is generally uncooperative with the Arab boycott. Even Undersecretary Baker, in response to questions in his testimony in December, admitted that there are many companies doing business both with Arab countries and with Israel on a consistent basis.

And it seems also that what limited persuasion has been effected on American companies by private groups such as the Anti-Defamation League and by statements from members of Congress, far from stiffening the Arab boycott, has actually rendered it more flexible. There is an extremely significant report in the April 26 issue of Arab Press Service, an authoritative Arab publication originating in Beirut. The report indicates that some Arab governments are shifting toward a policy of greater flexibility in their application of the boycott, with two specific changes mentioned. The report indicates that foreign companies can be removed from the Arab blacklist even without severing their ties with Israel,

if they are willing to commit themselves to investments in the Arab world worth twice as much as their Israeli investments. Second, there is a reported decision to grant entry visas to Jewish personnel to enter Arab countries, including Saudi Arabia, if they are involved in joint projects in the Arab world. The justification for these changes cited by the Arab Press Service is that they will strengthen Arab economic visibility, "reduce world opposition to the boycott policy," and "lure...Western know-how and investments to the Arab world."

Another such indication appeared in April in the Christian Science Monitor reporting that Dr. Ghazi A. Al Gosaibi, Saudi Arabia's Minister of Industry and Electricity, had stated that "if a company is willing to do in the Arab world exactly what it does in Israel, it can be removed from the Arab boycott list." The Saudi official's remarks were described by the Monitor as "an effort to defuse the Arab boycott issue and permit U.S.-Saudi economic ties to flourish."

From this it is obvious that the enactment of laws designed to thwart the boycott will not thwart trade, but will instead force the Arabs to divorce business from politics.

Mr. Chairman, we recommend the following course of action:

We urge the passage of legislation which would add teeth to the Export Administration Act. You have before you H.R. 4967, the Bingham bill, H.R. 5913, the Drinan bill, H.R. 11463, the Koch-Schauer bill, and a proposed series of amendments offered by Rep. Rosenthal.

We urge that it be prohibited to participate in a boycott - secondary or tertiary - initiated by a foreign government directed against a country friendly to the United States.

We call for legislation which would require that reports of boycott requests be made public by the Department of Commerce.

We ask that the prohibition on participation in foreign boycotts extend to banks and other related service organizations. We also urge that there be a specific outright prohibition upon the handling by banks, even "passively", of

letters of credit containing boycott-tainted provisions.

In short, Mr. Chairman, we would like to see what is already U.S. policy become U.S. law. If there is anything that demonstrates how necessary such a law is, it is the fact that some business firms which have violated the policy are now anxious to be legally prevented from doing so. This is not a paradox; it reflects the facts of business life.

Mr. Chairman, let me make it clear that the Anti-Defamation League does not oppose trade between the United States and the Arab world; we want to make certain that such trade is free trade. We do not want to restrict the businessman, but to free him from restrictions placed on him by foreign governments. We believe that this is the responsibility of our government. The vastly increasing Arab petrodollar wealth available for trade and the proliferation of boycott demands reaching our shores make action on this matter urgent.

Chairman MORGAN. Mr. Brody.

STATEMENT OF DAVID A. BRODY, WASHINGTON DIRECTOR, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

Mr. BRODY. Thank you.

EXTRATERRITORIAL APPLICATION OF U.S. LAW

Before I do, Mr. Chairman, I want to state for the record that I have cited this case involving the wholly owned subsidiary of a U.S. corporation in Canada without knowing it was a client of my national chairman. The same thing has happened also in Argentina where General Motors has a wholly owned subsidiary. When General Motors tried to compel its subsidiary not to sell automobiles to Cuba, the Argentine Government in effect told us to mind our own business.

This was so even though it was a wholly owned subsidiary of a U.S. corporation. They told us not to meddle in their internal affairs and that their law was going to be the controlling law.

It seems to me particularly in this 200th year of the founding of our country, if Argentina and Canada can stand up for their own internal laws we ought to be in the same position and stand up for our values.

Yesterday when Mr. Simon testified here he referred to some of these measures as "heavyhanded."

Now, Mr. Bingham is here, and Mr. Whalen was here earlier. Both of them, along with four other members of this committee, have sponsored H.R. 5967, which would ban compliance with boycott requests. Knowing Mr. Bingham and Mr. Whalen as well as I do, and some of the other members, I would hardly consider them heavyhanded.

1965 CONGRESSIONAL ANTIBOYCOTT ACTION

Furthermore, he said, let's not rush into coercive legislation.

In 1965, 21 Members of the House, including Mr. Bingham and 29 Members of the Senate, introduced bills identical to H.R. 4967, and Mr. Bingham at that time testified before the Banking and Currency Committee which had jurisdiction over the Export Administration Act before it was transferred to this committee, and what Mr. Bingham said in 1965 I think is equally applicable today, and I would like, with your permission, Mr. Chairman, to insert Mr. Bingham's statement into the record at this time.

Chairman MORGAN. Without objection it is so ordered.

[Mr. Bingham's statement before the House Banking and Currency Committee follows:]

STATEMENT OF HON. JONATHAN B. BINGHAM BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE HOUSE BANKING AND CURRENCY COMMITTEE IN SUPPORT OF H.R. 4360, MAY 21, 1965

I wish to thank the Committee for this opportunity to present this testimony in support of the proposal to amend the Export Control Act. I co-sponsored this proposal (H.R. 4360) with several of our colleagues in the House. It is identical to a measure offered in the Senate.

The Arab countries consider that a state of war now exists between them and Israel. They have, as a matter of policy, proclaimed an economic boycott against Israel which takes the form of not only refusing to permit Israeli products to enter their countries, but of barring products of companies which

maintain any trade with Israel. Thus, under the boycott as conceived and extensively applied, a U.S. business concern which manufactures goods in this country of materials which originate here would be barred from selling goods to Arab nations if it sells comparable goods to Israel.

This policy is not uniformly enforced. Thus, there is evidence that where the U.S. business is ingenious enough, it can circumvent the boycott. Moreover, if the Arabs find a sufficient desire for the goods or services they have found ways to rationalize overt violations of the policy. A case in point is the Hilton Hotel Corporation which refused to withdraw from operation of a Hotel in Tel Aviv. The Arab countries first threatened to prohibit Hilton from continuing to operate in various Arab countries. When the threat failed, the Arabs "interpreted" the boycott policy not to cover this type of operation because hard currency was being paid by Israel to Hilton. The fact that the same analysis would apply to U.S. firms selling U.S.-made goods is ignored by the Arab countries.

The purpose of this amendment is to protect those business concerns which are unable to compel the Arab nations to permit them to trade with them without refusing to trade with Israel. Trade free of this restriction will be of benefit both to our domestic corporations and to the democratic State of Israel.

The boycott is effectuated primarily by reliance on cooperation by the foreign merchants with the Arab Boycott Committee. Affidavits are solicited from the corporations attesting to no "commercial, industrial and/or any other relations" with Israel. Failure to provide such assurances is normally fatal to any commercial dealings with Arab nations. Thus, critical to the boycott is the cooperation of the business world.

I am convinced that this cooperation is, in most instances, not given voluntarily. Rather, it is the result of fear that those who do not cooperate will be at a disadvantage in relation to those who do. Some businessmen may cooperate because of indifference and perhaps a few may sympathize with the boycott (though this is probably a very minute group).

A concerted withdrawal of this cooperation would, in my judgment, end the boycott. The alternatives available to the Arab States under this circumstance would be either to try to maintain the boycott without reliable information or to drop the boycott. In effect, ending U.S. business cooperation with the boycott would mean that the Arab countries would be faced with the choice between no trade with U.S. companies or trade free of boycott restrictions. I do not believe that they will choose the first alternative.

I would also like to note here that we may erroneously have accepted the Arab Boycott Committee's claim that the Arab nations are monolithic on this subject. Recent events raise serious doubts. For example, Tunisian President Bourguiba has suggested peaceful relations with Israel. Moreover, there is no uniformity in the Arab nations' response to West Germany's decision to establish diplomatic relations with Israel.

I am not persuaded to withdraw support for this amendment to the Export Control Bill by the arguments advanced against it thus far. One argument is that if the boycott were to be imposed against a corporation which does not trade with Israel, the "innocent victim" could not provide proof of his innocence". This seems far-fetched. If there really were such a case, this matter could readily be handled through diplomatic channels.

Another argument advanced against the proposal is that its passage would incite an increase in the intensity of the Arab nations' boycott. I find this contention ridiculous. I cannot accept the notion that placing an impediment in the path of a wrong-doer encourages wrongful conduct.

A more apparently weighty argument is the contention that a U.S. government prohibition against private corporations' cooperation with the Arab boycott is inconsistent with our program with regard to economic isolation of Red China, North Korea, Cuba and North Vietnam. I do not, however, accept this claim. There are profound differences in principle and tactics between the two situations.

First, and most important, there is a most profound difference between our attempts to impose an economic quarantine on international aggressors whose actions are rightfully condemned by the free world and the Arab boycott of democratic Israel which proffers the hand of good neighbor. The basis of our appeal to other nations is not vindication of our national pride but, rather, is predicated on an appeal to international morality.

Second, we have not tried to punish other countries or their businesses which did not accede to our requests in regard to the quarantine of aggressive Communist states.

Third, while we do require companies which import *from* the United States to describe the ultimate recipient and we proscribe U.S. exports which will go to Red China, North Korea, North Vietnam or Cuba, this is totally different from the Arabs' efforts to get information from U.S. businesses in support of their effort to prevent trade in non-Arab goods with Israel. We do not attempt to prohibit exports to countries which deal in other merchandise with the four nations against which we have imposed economic sanctions.

In summary, I would reaffirm my conviction that this legislation is practical, desirable and could play a constructive role in protecting free trade. Both U.S. industry and Israel need and deserve this protection.

REFUSAL TO DEAL PROVISION

Mr. BRODY. Also when the Secretary testified yesterday, and I refer to page 7 of his testimony, he was asked a question both by Mr. Solarz and Mr. Lagomarsino, and I believe it was Mr. Parsky who answered the question, because the Secretary had to leave—in referring to the refusal to deal provision of the Koch-Scheuer bill he said that the Arab countries do not request U.S. firms to refuse to do business with other American firms which may be on the blacklist.

You recall that, Mr. Lagomarsino?

Mr. LAGOMARSINO. Yes.

Mr. BRODY. And on those occasions when the Treasury Department called to the attention of the Arab countries the fact the refusal of one American firm to do business with another American firm might constitute a violation of the antitrust laws, he said they immediately backed off.

If that is the case I suggest that if the Arab countries were to be told that our law prohibits compliance with boycott requests and does more than merely encourage them and request them not to comply, I think we would find the response might very well be the same.

Furthermore, you will recall he testified against the refusal to deal provision in the Koch-Scheuer bill. He did it on two grounds. One, he said it is really not necessary because the refusal to deal would now constitute a violation of the antitrust laws. Then he went on to say, but, if the legislation goes beyond the refusal to deal pursuant to a combination or conspiracy or agreement, and if it is going to apply to a unilateral refusal of one company to do business with another company because of a possible boycott demand, then it would be going too far, the proposal would be undesirable, because it would create difficult problems of proof.

Then, he also contended that the Arabs don't request one American firm not to do business with another American firm. Thus, he really missed another reason for opposing that provision in the bill that it is unnecessary because the Arab countries are not really engaged in the so-called tertiary boycott.

It seems to me what you have here is a classic case of a heads, the Secretary wins, tails, the committee loses. Either way he is opposed to the legislation. That by the way, is not the first time that this has happened.

SUSPENSION OF EXPORT PRIVILEGES

For example, there is a provision in the Koch-Scheuer bill which would make explicit that under existing law the Secretary has the power to suspend export privileges for violations of the antiboycott provisions of the act.

Now, Mr. Parsky in testifying before the Senate Banking Subcommittee in July of last year, said he opposed that provision saying that it would inject an element of uncertainty into existing business relations with the Arab world since the President could under that provision, act at any time to prohibit exports and other economic transactions with any of the Arab countries.

But, at the same time, before that same committee, another spokesman for the administration, Assistant Attorney General Scalia, for the Justice Department, opposed that provision of the Koch-Scheuer bill, saying it was unnecessary because under existing law the Secretary already has that authority.

REFUSAL TO DEAL PROVISIONS

I think, too, getting back to another point Mr. Bingham made yesterday with respect to the refusal to deal provision, when Mr. Bingham asked Mr. Parsky why don't we make it explicit, as the Koch-Scheuer bill would do, that one American company cannot refuse to do business with another American company because of a boycott demand, he stated as I have that he was opposed to such legislation. And he also indicated in response to the chairman's opening question, when the chairman put it to him quite bluntly, referring to his own bill, simply to extend the life of the Export Administration Act. And he said to Mr. Parsky, "Look, this bill isn't going to fly in just these simple terms, we are going to have to adopt some legislation strengthening the antiboycott provisions of the law."

Mr. Parsky still said no, we can see no need for any legislation.

ANTI-JEWISH ASPECT OF THE BOYCOTT

I want to go on to one thing Mr. Maslow said with respect to Secretary Simon's statement that the boycott is not religiously based.

The Secretary frequently refers to a joint communique which our Government and the Saudis issued within the last year which says that the boycott is not based on any form of discrimination relating to race, color, religion, national origin, sex or age. Mr. Simon has constantly adhered to that position.

I recently had occasion to send over to the Secretary a power of attorney which is used when an American firm wants to make application to register a trademark in a foreign country. Now, the particular Saudi power of attorney starts out by saying "we solemnly declare that this company is not Jewish nor controlled by Jews or Zionists."

When I was confronted with a response by the Treasury Department, that this Saudi attorney no longer uses this power of attorney. I simply told the Assistant General Counsel, that that reply was hardly a satisfactory one, and I gave him—and I would like to include it in the record at this point—a summary of Saudi trademark law, which states among the various documents required is a power of attorney, including a "Creed Declaration."

[The document referred to follows:]

SAUDI ARABIA

Law.—High Decree No. 33/1/4 of October 8, 1939 (45 Pat. & T.M. Rev. 326); Royal Decree No. M/24 of July 13, 1974.

Conventions.—Saudia Arabia is not a member of the International Union.

Definition of a trademark—A trademark is that mark which may be stamped on goods in order to show that such goods belong to the proprietor of that mark.

Who may apply.—Any person claiming to be the proprietor of a trademark may make application for the registration thereof.

What can be registered.—A registrable trademark should be composed of letters or figures, pictures or marks or all of these, so that it may form a special and distinctive type.

Not registrable.—It is not lawful to register as a trademark:

(*a*) marks which do not comprise any distinctive description, or consist of signs or descriptions which are merely the local names given to any of the products concerned, or an ordinary sketch or picture of any mark described in (b), (c), (d) and (e);

(*b*) official marks, stamps, flags, general insignias and international symbols or representations of any member of the Royal Family or any commodity except school books;

(*c*) marks which contain symbols or anything which has a religious significance;

(*d*) marks of an immoral nature, or marks which may be contrary to Islamic traditions, religious principles and public security;

(*e*) marks which are calculated to deceive the public, or which may contain false indications of the origin and characteristics of the goods, also well-known marks which serve as a guaranty of the kind, make and origin of the commodities or articles on which they are stamped. Such a mark may, however, be registered on application by their original manufacturer or proprietors.

Classification.—A single application for registration of a mark may be made for more than one kind of goods, but an application which is made for one kind shall not thereafter be modified to include more than one kind. A new application in respect of these additional goods must be submitted.

Marks in colors.—Trademarks or any part thereof may consist of a particular color or colors, but if they are to be registered without defining the color, they shall be considered as consisting of all colors.

Documents required—

Authorization of agent including Creed Declaration, legalized by Saudi-Arabian or any Arab consul.

55 prints of the mark.

Electrotype (also for word mark).

Certified copy of home registration, if mark previously registered. If mark is not registered in home country, certified copy of any foreign registration or a certificate legalized from the local Chamber of Commerce evidencing ownership of the mark.

Procedure.—An application is filed with Registrar of Trademarks, who after acceptance publishes the mark. Applicant is notified within one month of acceptance or refusal by Registrar.

Appeal.—Applicant may appeal to higher authorities from decision of Registrar.

Advertisement.—Accepted applications for registration are published in the official newspaper.

Opposition.—Any person may within six months from the date of publication file opposition thereto in the Supreme Chamber of Commerce, and also report the same to the Registrar. The Chamber of Commerce, after investigating the case shall communicate its decision to the Registrar. The Chamber of Commerce is also authorized to permit the Registrar to effect registration, subject to certain conditions or modifications which the Chamber may consider necessary in connection with the trademark.

Effect of registration.—Any person registering a trademark shall be considered the sole proprietor thereof.

Duration and renewal.—A registered trademark is protected for ten years (Hejira years which are 11 or 12 days less than the Gregorian year) from the date on which application was submitted. It may be renewed for a similar period within a period of three months before the expiration of each period. If registration is not renewed the office of registration shall notify the proprietor to renew and pay the fees within three months.

Documents for Renewal.—Authorization of Agent, including Creed Declaration, legalized by Saudi-Arabian or any Arab Counsel; original certificate of registration; 55 prints; 1 electrotype.

Time within which mark cannot be reregistered by another.—Where registration is cancelled for failure to renew, the mark cannot be reregistered by a third party within three years from date of cancellation.

Assignment.—An assignment of a trademark must be recorded.

Documents required.—Authorization of agent including Creed Declaration, legalized by Saudi-Arabian or any Arab Consul. The assignment deed or a home certificate of assignment, legalized by Saudi-Arabian or any Arab Consul; original certificate of registration; electrotype; 55 prints of the mark.

Cancellation.—If any person proves that he has used a trademark continuously for one year before its registration by another, he shall have the right to own such a mark. This right is a personal one and is not hereditary or transferable.

Limitation of time for action.—After five years from date of registration, ownership of mark cannot be contested.

Third party rights.—See "Cancellation."

Customs.—Imported goods bearing infringing marks or marks not registrable (see page 615), except those which are not registrable due to descriptiveness or lack of distinctiveness may be seized and confiscated at the Customs.

Mr. BRODY. Furthermore, it was in November, on November 25, when the Saudi Embassy here issued a press release setting forth its policy with respect to the issuance of visas, and it stated "Saudi Arabia does not admit anyone adhering to Zionism."

I don't need to tell this committee that Zionist is a code word for Jew and that the Saudis so interpret that word, and indeed the Commerce Department, when it recently issued its revised regulations on November 20, made plain that code words would fall within the prohibition of discrimination based on race or religion.

Plainly, the Commerce Department was referring to this type of case.

I might add one thing in conclusion; that, when the Treasury or State Department spokesmen say that the boycott is not economic, it is political, they are taking a position which is completely contrary to the position taken by the Justice Department in the *Bechtel* case and fully consistent with the position taken by Bechtel which, in its response to the civil suit brought by the Justice Department, has stated that the boycott is political.

Chairman MORGAN. Thank you, gentlemen.

CORPORATE SUPPORT FOR ANTIBOYCOTT MEASURES

Mr. Maslow, you stated, in your testimony on page 4, U.S. businessmen have said they would be willing to defy the Arab boycott if only they were given some authority to do so.

Mr. Graubard makes a similar point on page 13 of his statement.

Can either one of you furnish any concrete evidence to this effect?

Mr. MASLOW. I can tell you this. I asked permission, where I had received material in writing, and I was told, please don't press us, we are afraid of reprisals, we are afraid of pressure from others in the community, and they refused to give me permission to disclose the names of those who had said so.

Mr. GRAUBARD. We have a number of names of firms that state that they will join us in supporting the legislation before this committee. Is that what you are referring to, sir?

Chairman MORGAN. Well, I am referring to Mr. Maslow's statement on page 4, they would be willing to defy the Arab boycott only if they were given some statutory authority to do so.

Mr. GRAUBARD. That is right in line with what I informed you the heads of these major banks told me; they would like to be barred from aiding the Arab boycott but none of them wants to stick his own particular bank's neck out.

Chairman MORGAN. Mr. Buchanan.

Mr. BUCHANAN. Mr. Chairman, first, may I say, for the record, that we Republicans in the South run into similar problems from businessmen who will say "I am for you but I can't afford to let my name be publicly used because of what might happen to me in reprisal." It has changed a little, but it was that way when I started.

Gentlemen, I want to thank you for a most effective case, and I think you really made quite an impressive case.

I must say that I looked at the list of witnesses and I saw David Brody was seated at the table but not listed among the witnesses, and having been one of many people who have been very effectively persuaded by him on questions involving justice, equity, and human rights, I wondered how he could remain a silent partner. I am pleased to see it did not happen.

I want to thank all of you for your most effective testimony.

Mr. BRODY. If I may respond, Mr. Chairman, to what Mr. Buchanan said at the very outset. One of the reasons why the situation has changed in the South in recent years is in good measure due to people like Mr. Buchanan.

Chairman MORGAN. Mr. Bingham.

Mr. BINGHAM. Thank you, Mr. Chairman.

I, too, would like to thank this panel of witnesses, and I think they have made a very impressive case. And I am only sorry that more members of the committee were not here to hear them.

STATE ANTIBOYCOTT LAWS

I do have one or two small questions.

I am interested in the number of States that have adopted legislation along these lines. Do any of you have that?

Mr. MASLOW. Three: New York, Illinois, and Maryland.

Mr. BINGHAM. And you mentioned something about the Lisa Act.

Mr. MASLOW. The Lisa Act is the name of the New York law. It became effective January 1, 1975. It is named after the assemblyman who introduced it.

Mr. BINGHAM. Has there been any challenge to these laws on the ground of constitutionality that they would interfere, that they were, in fact, impinging upon the prerogative of the Federal Government.

Mr. MASLOW. Yes; New York State began a series of legislative hearings in February 1976 and issued a subpena to General Electric demanding its testimony. General Electric went to court and contended that this area had been preempted by the Federal Government and their complaint was dismissed and the subpena upheld.

Chairman MORGAN. We will be putting in the record and will furnish you a copy of the statement by Mr. James J. Dickman, President of the New York Shipping Association, and I think it will answer some of your questions. We have some extra statements. I will see that you receive one.

[The statement referred to follows:]

STATEMENT OF
NEW YORK SHIPPING ASSOCIATION, INC.
TO THE
HOUSE COMMITTEE ON INTERNATIONAL RELATIONS
ON
FOREIGN BOYCOTTS

This statement is submitted on behalf of New York Shipping Association, Inc. to the House Committee on the important issue of foreign boycotts. NYSA is a not-for-profit corporation, organized under the laws of the State of New York, for the purpose of representing its steamship carrier members, terminal and stevedore members and other employers of waterfront labor in Collective Bargaining Agreements with the International Longshoremen's Association, AFL-CIO (ILA) and other labor organizations. Every major steamship carrier serving the East Coast of the United States is a member of NYSA. NYSA and its members are vitally interested in protecting the free and unrestricted flow of foreign commerce through the Port of New York, as well as all other ports on all four coasts of the United States.

NYSA's general position is that such free flow of foreign commerce to and from the United States is an extremely important factor in the economic well-being of the United States and its citizens.

Any discriminatory restrictions on such free flow hurt this important national policy. It is for this reason that NYSA takes the position that foreign boycotts of any firms, corporations or citizens of the United States should be determined to be not only contrary to the national policy, but also contrary to law. Boycotts of American citizens or corporations because of their race or religion, or because of their dealings with foreign nations friendly to the United States constitute an undue restriction on American commerce.

It is also NYSA's position that this basic and important question is one of grave federal policy within the commerce and foreign relations of the federal government and should not be left to the states for diverse and non-uniform regulations.

The State of New York presently has a state statute (Chapter 662 of the laws of 1975) which seeks to protect its residents from the results of foreign boycotts. The law contains long-arm provisions which attempt to control boycott activities occurring outside the State of New York against a resident of the State of New York. The statute is a complex one, and up to the present time, to our knowledge, not a single complaint has been filed under the provisions of the statute. The mere existence of this statute, however, has had a tremendous impact on the movement of trade through the Port of New York and has

encouraged the diversion of such trade to other ports on the Atlantic and Gulf Coasts of the United States.

Recently, the State of Maryland has passed a similar statute which would become effective on January 1, 1977. Anti-boycott bills are now pending in the States of Pennsylvania and New Jersey. While each of these bills seeks to reach the same question of foreign boycotts, they contain dissimilar provisions and penalties, with the result that there is a total absence of uniformity in the present and proposed state legislation. In brief, four different laws would regulate the commerce in the major ports of the United States North Atlantic coast without uniformity and with substantial, unresolved questions as to their enforceability and application.

When states seek to enter the sensitive area of international relations, each being free to decide what they consider best for the protection of their own citizenry, the end result is harmful to the international affairs of the United States. The particular law to be applied on identical commodities moving in the foreign commerce of the United States is thus made to depend upon the accident of the port through which such cargo is to move.

The example in New York is illustrative of that fact that state intrusion in this area creates harm and mischief to the foreign trade of the United States. The regulation of foreign commerce, in our view, has always been, and should continue to be, under the sole jurisdiction of the Federal Government.

It is the position of NYSA that any federal statute in this area should preempt the right of the states to act in this important area. Such a preemption provision is needed if there is to be uniformity in the treatment of the Boycott issue and if all citizens of the United States are to be treated equally and alike. Unless the policy ultimately adopted by the Federal Government provides the exclusive remedy for discriminatory acts of boycott, the result will be that the Federal law will be superimposed upon divergent and different state statutes.

The law in the Port of New York will continue to be different than that in any other port. The effect of the existing boycott on the Port of New York would continue. Those persons, who in the past have used the absence of anti-boycott legislation in other ports as an excuse for diverting cargo from the Port of New York, would continue their discriminatory acts which started at a time when there was no effective Federal legislation applicable to ports other than the Port of New York. In brief, the only sound method to regulate in this area

is on an overall federal level so that all ports in the United States operate under identical and uniform rules.

The various proposed anti-boycott bills being considered by this Committee provide civil monetary penalties and prohibitions against discriminatory acts. The New York Boycott Statute, in certain instances, provides criminal sanctions. It is obvious that, unless the New York State Statute is preempted by Federal action, that a single given act of discrimination may result in the imposition of two penalties. One of these penalties would be federal and civil and the other penalty might well be state and criminal. Under such dual regulations, it is obvious that cargo shippers would continue to avoid the Port of New York and send their cargo through other Atlantic and Gulf Coast ports.

The impact of the statute in New York has been the reverse of that sought by its proponents. It does not protect the citizens of the State of New York from the results of boycott. On the contrary, it has resulted in millions of tons of cargo being diverted from this Port and being moved elsewhere. As pointed out above, such result has not come about from any attempt to enforce the law which, in our view, is unenforceable, but from the mere existence of the statute.

Obviously, those involved in the movement of cargo to the Middle East have sought to avoid any question of violations of the New York State law by not shipping through this port. The major shippers of cargo to the Middle East have estimated that their volume of cargo in the next 5 years will exceed 100 million payable tons. Under normal conditions, it might be anticipated that such cargo coming from areas naturally tributary to the Port of New York would move through this Port; yet all of the plans that we have seen, to the present time, provide that such cargo will be moved elsewhere. Obviously, those moving such cargo did not assign the existence of the New York Statute as a reason for their major diversions. Yet, prior to January 1, 1976 - the effective date of the New York State Boycott Statute - substantial amounts of project cargo moved th gh this Port. Many steamship line members of NYSA have had reductions in volume of as much as 50%. This does not mean that such cargo has been totally lost to the American economy; it only means that such cargo is not being carried through this port.

The effect of the diversions of Middle East cargo from the Port has had a tremendous impact not only on job opportunities of longshoremen and other waterfront workers, but on all of those engaged in ancillary work in such areas as freight forwarding, trucking, insurance, banking and other related activities. The harmful result so far visited on the Port of New York indicates full well the adverse results which flow from states tampering in the area of foreign relations. NYSA does not disagree with the underlying basis of the New York State law. It does, however, take the position that the answer is not to be found in different and non-uniform state enactments, but rather in a single national policy which should be applicable uniformly to all citizens of the United States.

NYSA, therefore, urges the House Committee on International Relations to adopt a single policy applicable to all foreign trade and to specifically provide that state regulation in this area has been pre-empted by federal regulation.

Respectfully submitted,

NEW YORK SHIPPING ASSOCIATION, INC.

By: James J. Dickman
JAMES J. DICKMAN
President

June 7, 1976

IMPACT OF STATE ANTIBOYCOTT LAWS

Mr. BINGHAM. Thank you, Mr. Chairman.

Would you be willing to tell us, Mr. Hyman, without naming your client, who indicated he was glad to have the backing of a law and that he succeeded in maintaining a position with his Arab customers because of it? What State law was involved?

Mr. HYMAN. It was the New York State law, Mr. Bingham.

Mr. BINGHAM. Thank you.

Mr. Graubard, in connection with your comments on the application of the——

Mr. MASLOW. May I interrupt?

I know a bank in Chicago sent a letter to its Mideast correspondents saying as a result of the Illinois law which became effective October 1975 it no longer could honor letters of credit. I have the letter in my possession now, but the letter ends with a statement, "Please, this is confidential, do not make it public."

But we know that some companies are responding even to State laws.

Mr. BINGHAM. Thank you.

EXTRATERRITORIAL APPLICATION OF U.S. LAW

I am a little puzzled, Mr. Graubard, as to the thrust of your comments with regard to subsidiaries. I am not clear exactly whether you are saying that it would be possible to enforce such a law as we are proposing here against subsidiaries of American companies based abroad and incorporated abroad, and if it would not be possible to enforce against such subsidiaries, then, are you concerned that that might provide a loophole that might be a serious detriment to the enforcement of the law?

Mr. GRAUBARD. If I may be very precise on the factual basis, there are few situations that would be analogous to Canada in the situation that I had described to you. The situation described would not come up often, and what my suggestion was is that so far as these subsidiaries and affiliates of U.S. parent corporations are concerned that is a reasonable exception that where the laws of the nation which has jurisdiction over the subsidiary or the affiliate prohibit or permit an act. That law, as would be inevitable in any event, would be controlling.

Mr. MASLOW. The present regulations under the Export Administration Act, those issued by the Department of Commerce, apply to the wholly owned subsidiaries of American companies. They are required to make reports of actions taken by their subsidiaries just as actions taken by themselves, and certainly the act which relates to the boycotts imposed by the United States itself, certainly, applies to the subsidiaries of American companies.

So, there will be no difficulty in any legislation that Congress enacts to make it apply to any subsidiary and certainly to affiliates in which they have a controlling interest.

Mr. BINGHAM. I wonder if the prohibition must not be directed to the parent company rather than to the subsidiary?

Mr. MASLOW. Yes; it should be directed to the parent company.

Mr. BINGHAM. Right, thank you.
Chairman MORGAN. Mr. Lagomarsino.

EFFECT OF BOYCOTT ON ISRAEL

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

I wonder if any of you gentlemen could give the committee an idea of what the effect of the Arab boycott has been on the State of Israel?

Mr. MASLOW. Statements issued by the Israeli authorities indicated a decline in the amount of American investment in the last 2 years. That decline may be attributable to the worldwide recession, but I have been told by Israeli economic authorities that they believe that many American companies are withholding the establishment of an economic presence in Israel because to do so would be to violate the boycott regulations and they are unwilling to do that at the moment.

For example, there is not a single major bank in the United States that has a branch in Israel. They have branches all over the Arab world.

General Motors doesn't have a branch in Israel, whereas Ford Motors does.

Many companies apparently are refraining—I say "apparently" because this is a difficult question of proof—refraining from economic investments in Israel, and that is what the Arab boycott is about, to thwart the economic development of Israel.

Mr. LAGOMARSINO. I think earlier one witness pointed out that Ford Motors was on the boycott list and General Motors is not?

Mr. MASLOW. That is right.

Mr. GRAUBARD. Ford is doing business in the Arab world.

Mr. LAGOMARSINO. I guess there is ground for the argument using the same facts.

Mr. HYMAN. Even if there were not a material, adverse effect on Israel, I think we should emphasize that the principle of this matters——

Mr. LAGOMARSINO. I am not talking about that. We had not heard that testimony so——

Mr. GRAUBARD. May I add to the answer?

We have no solid evidence, evidence which I would find personally acceptable, that the boycott is having a materially adverse economic effect upon Israel. What may occur, however, is that the boycott enforced in the United States will prove to be a discouraging factor for investments in Israel or doing business with Israel by companies that have not in the past given it any thought at all. It is very difficult to measure in view of the change of economic circumstances in the last few years worldwide, to ascertain exactly how much of that change in the Israeli balance of trade and investment is due to the boycott.

CONSTITUTIONALITY OF NEW YORK ANTIBOYCOTT LAW

Mr. LAGOMARSINO. I missed a reply earlier, part of a reply.

Did one of you say that the U.S. Supreme Court had ruled that the Lisa Act was constitutional?

Mr. MASLOW. I said a district court had held a subpena issued was valid and rejected the ground of General Electric that the Federal

Government had preempted the field and, therefore, there was no room for State regulation.

Mr. LAGOMARSINO. That is the only judicial determination that we have today?

Mr. MASLOW. Yes.

Mr. LAGOMARSINO. Has it been otherwise challenged?

Mr. MASLOW. No.

STATEMENT OF SAMUEL RABINOVE, LEGAL DIRECTOR, AMERICAN JEWISH COMMITTEE

Mr. RABINOVE We are also very much concerned about what you might call the chilling effect of the existence of the boycott on the American scene as far as the willingness, for example, of U.S. corporations, which certainly seeks, very much, Arab business, to place Jews in visible position within their companies because this might tend to displease the Arabs.

Mr. LAGOMARSINO. Right.

I wonder if the witness who spoke would identify himself.

Mr. RABINOVE. Samuel Rabinove, legal director of the American Jewish Committee.

Mr. MASLOW. Sometimes we have companies doing things which they may be doing on their own without any pressure at all from the Arab countries. Gulf Oil Co. engaged a secretary in 1975 for one of its executives to be stationed in England. She was a Christian girl. Three weeks after she got the job she married a Jew, whereupon, she was fired.

She filed a complaint with a race relations board in England, and the complaint was upheld.

I am not suggesting that any Arab country told Gulf Oil to fire this secretary, but somebody was so afraid that this girl might conceivably irriate or embarrass the company that on its own they fired this girl and that is what may be happening even without any boycott regulations.

Mr. LAGOMARSINO. That is a good point.

ANTIBOYCOTT STEPS BY OTHER COUNTRIES

What are other countries doing with . . d to the Arab boycott?

Mr. MASLOW. The only thing I know of, in Holland the Association of Notary Publics have issued a statement forbiding any of their members to notarize any certificates relating to the boycott.

Mr. GRAUBARD. In other nations they are ignoring the problem in hopes of getting more business. I am happy to state that they are not getting more business from the Arabs because they are complying with the boycott, rather business continues to come to the United States whether or not the corporations concerned adhere to the provisions of the boycott.

IMPACT OF ANTIBOYCOTT MEASURES

Mr. LAGOMARSINO. Now, I guess the question is—or one question is, whether that would remain the case if the legislation that you are supporting is adopted.

Mr. GRAUBARD. We feel, on the basis of experience, that there is no question about that. One thing the Arabs have shown very clearly of

late, and that is, that they are very interested indeed in keeping their petrodollars at work as effectively as they can.

They come to the United States because of our higher precision, higher quality items, because, competitively, we do better, and, I think, as well, because they do not fear, as they do from certain Eastern European nations, political consequences of engaging in business with us.

The result has been that the U.S. trade increases and it does so on a strictly business like basis, and there are examples after examples to show that where the corporations from whom the Arabs want goods or services say, "We are going to ignore your boycott," they don't lose business.

Mr. MASLOW. Saudi Arabia is now engaged in a vast development program. May I supplement the answer.

Millions and millions of dollars are being spent building roads, ports, harbors, and so on and establishing universities—the U.S. Corps of Engineers, in effect, have been named the agency for Saudi Arabia in drafting the specifications, selecting the contractors, supervising the bids, and HEW specialists now are advising Saudi Arabia how you set up a university. They have done this because we are the best source of information about universities, having the best educational system in the world, barring none, and have better construction companies.

Now, will anybody tell me that Saudi Arabia is now going to disrupt all of this program and go where—to Italy, to France, to Germany, to England? Who is going to do this for them, and why did they select this country in the first place.

Mr. LAGOMARSINO. All of you pointed out that, using my words, to some extent, at least, in some cases, the boycott is perhaps more pro forma than an actuality. Then you see that as a reason, as you just did, that if this legislation is adopted we will not lose business. Am I misstating?

Mr. MASLOW. No. I said the boycott was a bluff. It is not pro forma. There are hundreds of companies issuing these certificates and probably avoiding doing business with blacklisted suppliers. To that extent, it is real.

I said it is a bluff in that the Arabs would back down.

Mr. LAGOMARSINO. In that they do back down in some cases?

Mr. MASLOW. Yes.

Mr. GRAUBARD. The boycott's effects on business cannot be separated from its effects upon people.

Mr. LAGOMARSINO. I understand that.

Chairman MORGAN. The time of the gentleman from California has expired.

Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

Gentlemen, we appreciate hearing your views on this important issue.

PROHIBITING BOYCOTT COMPLIANCE OR DISCLOSURE

With regard to the legislation, which do you prefer, the Bingham approach, prohibiting and outlawing compliance, or the Koch approach, which goes to disclosure?

Could we hear your opinions?

Mr. HYMAN. Ideally I would say——

Mr. BINGHAM. Just a moment.

Would the gentleman yield?

I think, in fairness to Mr. Koch, possibly, the gentleman, Mr. Gilman, was not here when he explained these in favor of the prohibition as well as the provisions of the Stevenson amendment, which is comparable to the original Koch-Scheuer proposal. He explained that he was in favor of both points.

But it is true that the Stevenson amendment does not go to the prohibition of the secondary boycott.

Mr. BRODY. We would all favor the Bingham-Rosenthal approach, which would ban compliance with all boycott requests.

Mr. GILMAN. Is it entirely possible, if agreement—

Mr. MASLOW. We favor both the reporting and prohibition, and the reporting is an instrument in enforcing the prohibition. We would like both.

PRIVATE RIGHT OF ACTION

Mr. GILMAN. Do you feel that the Rosenthal provision is important to provide a right of action against corporations by the individual?

Mr. MASLOW. Yes; I believe it is important.

May I point out, as well, one of the effects which hasn't been mentioned by any witnesses of enactment of Federal legislation is that it will encourage many agencies of the Government, which, up to now, have not been willing or able to do something, to lend their help in enforcement.

The SEC can then get involved. The Department of Justice can get involved. The Comptroller of the Currency can get involved. Apart from them, it is wise to allow the private right of action under the Antitrust Act. Such a right already exists, and there ought to be a similar right under the Export Administration.

PENALTIES

Mr. BRODY. Furthermore, I would add, the penalties under the Koch-Scheuer bill only call for a $10,000 monetary penalty for violating the law. That penalty is hardly adequate, although there are, of course, criminal penalties.

Mr. GILMAN. What sort of penalty would you recommend?

Mr. BRODY. I would recommend the same rule applicable to antitrust violations, treble damages.

Mr. HYMAN. With regard, sir, to the private right of action question that you asked, I think it is important to note that even the administration bill, originally introduced by Representative Hutchinson, contained a private right of damage clause.

APPLICATION OF THE BOYCOTT

Mr. GILMAN. There has been some testimony about some of the Arab nations being more stringent in their requirement than others. There has been a differentiation between commercial contracts and defense contracts.

Do you detect any alleviation of the boycott requirements in recent months by any of the Arab nations?

Mr. GRAUBARD. May I say, historically, each nation originated its own boycott laws. They have a committee to coordinate. But each one maintains its own set of laws, and as exhibits, we have annexed these statutes to our testimony, with the request that they be printed.

We have noted that there seems to be an alleviation of the stringency of the boycott, I think, in large part, it is due to the interest that the Congress is taking in this situation. The Arabs would rather compromise and go easy in certain areas than to have the absolute prohibition that we are requesting.

I do not believe that Secretary Simon was correct when he thought that it was American diplomacy that is achieving this.

Mr. GILMAN. You mentioned that each nation has their own regulation. Is there one agency, an Arab agency, here in this Nation, that oversees the boycott program?

Mr. MASLOW. There is a Central Boycott Office in Damascus but it has only advisory powers. It cannot command any one of its constituents to follow its dictates, and that is why there are such differences.

In addition, some Arab countries, Morocco, for example, have no separate boycott list at all, and enforcement, therefore, by Morocco, is very weak. There is no mandatory authority in the Arab League that can impose a uniform boycott or can assist in its uniform enforcement.

Mr. GILMAN. Thank you.

Mr. GRAUBARD. May I add, there are United States-Arab Chambers of Commerce in the United States that are utilized by the Arab League for the purpose of aiding and abetting the boycott.

Chairman MORGAN. The Chair wishes to state he wants to finish today, if possible.

I would like to move along with the other witnesses.

The time of the gentleman from New York has expired.

Mr. BRODY. Before the panel leaves, on behalf of the panel, I want to pay our respect to you, Mr. Chairman, on the occasion of your retirement from Congress. You have done a tremendous leadership job as chairman of this committee. Only recently you shepherded the foreign aid bill through the House by a vote of 255 to 140, and we look to you, Mr. Chairman to do likewise with the antiboycott bill.

I think it was Congressman Koch who said he would be delighted to call it the Morgan bill. I would join with him in this respect, and we look to your leadership to get a strong bill through the House.

Chairman MORGAN. Thank you, David.

I would like to put in the record at this point a letter from J. L. Stanton, Maryland Port Authority, and, also, would like to submit for the record, statements submitted by Hon. William J. Green Member of Congress, and Anthony Scotto, international vice president and legislative director of the International Longshoremen's Association.

[The statements referred to follow:]

JUNE 3, 1976.

Hon. THOMAS E. MORGAN,
Chairman, International Relations Committee, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN MORGAN: The Maryland Port Administration, a state agency charged with the overall development of the Port of Baltimore, strongly urges favorable consideration by your Committee of H.R. 10882 as an effective measure to prevent discrimination against U.S. minorities brought about by some Middle Eastern countries through certain boycott measures. This strong plea is reflective of the position of Baltimore's maritime industry and our port labor.

Failure to enact a strong international bill prohibiting compliance by U.S. firms or citizens with the Arab boycott has resulted in several states, including Maryland, passing state laws aimed at preventing compliance with such boycotts.

Clearly, this is an ineffective way to eliminate discrimination against certain citizens of the United States as it is our considered opinion that this is a national issue and not localized to any state or region of the country.

The effect of state legislation, as has been demonstrated by the experience of New York State, has been the diversion of Middle East-bound cargoes from ports in that state to other ports where such state measures have not been passed.

The Port of Baltimore, now handling substantial Middle East cargoes, is threatened with diversion of this business to other ports when our law becomes effective January 1, 1977. Obviously, this will have a severe impact on the economy of the State of Maryland. Our contacts with U.S. shippers moving cargoes to the Middle East clearly indicate that these shippers will simply divert their business from Baltimore to other seaports where anti-discrimination legislation has not been enacted.

Obviously, this is not in the best interest of the State of Maryland nor of the nation as a whole. This diversion of business from traditional ports seriously disrupts the normal flow of international commerce, adversely impacts the economy of states that have attempted to prevent discrimination and fails to eliminate compliance with a foreign-imposed boycott that should be abhorrent to all American citizens.

Again we strongly urge a favorable report from your Committee on this important legislation.

Sincerely yours,

J. L. STANTON,
Maryland Port Administrator.

STATEMENT OF HON. WILLIAM J. GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, I appreciate the opportunity to make this statement on the Arab economic boycott.

The boycott is not only directed toward Israel; it has secondary and tertiary goals as well: preventing American industry from doing business with Israel, and pressuring American firms into discriminating against other American companies which are on the boycott blacklist.

The language of the Export Administration Act is ineffective in dealing with the boycott. The Act merely "discourages" compliance with such activities. The law must be modified so that American firms are not placed in the difficult position of having to discriminate against other American firms in order to get business from the Arab world. I believe the law should require American businesses to deny Arab boycott requests as the Koch-Scheuer bill, which I have co-sponsored, would provide.

Let us be clear on one point: the Arab boycott is not only anti-Israel, it is anti-Jewish. For what other reason would the Arabs request information on the religion of American workers sent to the Arab nations, or blacklist American firms with Jewish officers or stockholders. If Americans don't tolerate discrimination on the basis of religion under their own laws, it is unconscionable that we should tolerate Arab anti-semitic blackmail of our business community.

STATEMENT OF ANTHONY SCOTTO, VICE PRESIDENT AND LEGISLATIVE DIRECTOR, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL–CIO

Good morning. My name is Anthony Scotto. I am privileged to serve as the President of ILA Local 1814 in Brooklyn, New York. I also serve as Vice President of the International Union and as its Legislative Director.

The International Longshoremen's Association, AFL–CIO, is the largest labor organization representing longshoremen and other waterfront craft workers in the United States. Its jurisdiction covers the ports from Maine to Texas, the Great Lakes and Puerto Rico.

It also has affiliated locals in the St. Lawrence Seaway ports and in the maritime provinces of Canada. In all, the ILA represents some 130,000 men

who handle most of the cargo that moves in the foreign trade of the United States.

It is because of these responsibilities, and because of my concern for the livelihoods of these thousands of longshoremen and their families, that I appear before you this morning. The ILA also believes that the issues before this Committee affect fundamental American values.

A distinction must be made here. I personally believe that free trade between the Arab countries and Israel would benefit the entire Mideast region. It would also reduce the risk of war. But, I recognize that sovereign nations have a right to refuse to deal with Israel.

This right, however, does not, and should not, permit any foreign nation to pit one American against another; particularly when such conflict can generate and has generated ethnic overtones in this Country.

Nor, should American commercial activities be forced to serve the policy objectives of foreign governments. These are infringements on American sovereignty. We feel they demand a Federal response.

At this very moment, the Congressional declaration of policy enunciated in the Export Administration Act (50 United States Code, Appendix subsection 2402(5)(A)) is being violated by the operation of a boycott by foreign actions against nations friendly to the United States. There are no statutory sanctions to enforce this declaration of Congressional policy. Thus, compliance is largely voluntary. This creates a vacuum in which private parties, must implement or ignore, American policy.

The several States have moved into this vacuum and acted to protect the rights of their citizens. New York State has enacted an "anti-boycott" statute under which the prohibited activity is an "unlawful discriminatory practice". Maryland, too, has enacted a similar statute which will take effect on January 1, 1977. Similar legislation is pending in the legislatures of New Jersey and Pennsylvania. Each of these statutes approaches the problem differently and will, therefore, impose different penalties, even though each State is seeking the same end—opposition to boycotts, "by foreign countries against other countries friendly to the United States."

The only statute currently in effect is New York's *Lisa Law*. Thus, the international cargo and the commercial and financial transactions which are part of the movement of the cargo through the Port of New York are subject to unique restrictions—restrictions that do not affect any other port.

Even prior to the enactment of this law, the Port of New York, a major source of wealth for the Metropolitan region, was in a steep decline. The Port's total share of American imports and exports has fallen off drastically. The reasons include the cost of doing business in the Port, the shifts of population and industry from the Northeast, lack of integrated railroad facilities, the imposition of high cargo charges and containerization. Almost 20,000 jobs have been lost in water transportation alone since 1970.

And now, the new "anti-boycott" law in New York State is causing a disturbing acceleration in the loss of that port's business. Briefly, the Arab boycott of Israel includes trade restrictions on United States exporters to Arab countries. Exporters and related service organizations, such as banks and freight forwarders, must *certify* in writing that exports to Arab countries do not contain Israeli-made components, the ship is not Israeli-owned, and so on. As we have previously stated, similar legislation has been enacted in Maryland and is pending in Pennsylvania and New Jersey. It can, therefore, affect the livelihood of longshoremen in our other major ports as well.

The U.S. Department of Commerce issued new regulations in December prohibiting United States exporters from taking any action, including the certification or signing of agreements, that has the effect of supporting a restrictive trade practice *when* that certification or agreement promotes discrimination against a United States citizen or company.

But if there is no discrimination against a United States citizen or firm, an exporter under United States law is merely "encouraged and requested" to refuse to comply with the restrictive trade practice.

New York State's boycott law makes it illegal for any person to *aid or abet* a boycott against Israel or many other countries. A laudable gesture indeed. But in the final analysis, the Port of New York is at a disadvantage because it is affected not only by Federal regulations, but a more encompassing state law.

Some illustrations of the loss of cargo that is "naturally tributary" to the Port of New York were cited in a statement issued by the New York Chamber of Commerce within only weeks after the state statute was enacted. I quote:

"Manufacturers and other suppliers of goods formerly moving cargo to Arab destinations from New York are now shipping via Philadelphia, Baltimore, Norfolk and Boston.

"A major manufacturer whose exports to Saudi Arabia this year and over the next few years will total several billions of dollars, is now shipping through Houston. These will amount to 2–3 million tons of cargo, cargo which would have been handled by a New York foreign freight forwarder, a New York export packing company, several New York trucking companies, the longshore labor force at a number of Brooklyn piers and the steamship lines carrying the cargo, with New York banks confirming the letters of credit. With some 60–90 jobs in New York dependent upon every million dollars of exports, the impact by the diversion of cargo by just one company is obviously huge.

"One freight forwarder informed us that they had to open an office in Houston, and staff it with over 50 people who were moved from New York. About a dozen other forwarders advised us that because were planning similar moves out of New York.

"One packing company reported that effective March 1st, they were dismissing 10 workers, which represents the staff needed to pack for just one account that diverted. Another customer of their was to start shipping through New York this year has changed its plans. New jobs that would have been available for at least 6 additional employees, no longer exist.

"One major New York multinational corporation, still in the decision-making process of whether to move its headquarters and staff, from New York State, indicated that this law may well be the straw that broke the camel's back for them.

"Another manufacturer has held up shipments totalling $1 million for the month of January, and this will be compounded at the rate of $1 million a month, all of which would have been New York business.

"Two companies in New York have indicated that their New York sales offices are not taking any new orders here, but are considering filling the orders from their European factories.

"At least five export companies have reported that they are now receiving letters of credit confirmed by banks in New Jersey, Pennsylvania and Wisconsin, whereas they were formerly all confirmed by New York banks.

"One petroleum company stated they are considering closing its N.Y. operation entirely. The air cargo shipments for one major manufacturer which total about 5 million pounds a year, will now be shipped via other airports.

"An association of export companies, most of them in New York and representing over a thousand manufacturers for export sales, reported that many of its members are contemplating moving their offices out of New York to New Jersey, and using other ports to ship their cargoes. This one group handles close to one billion dollars of U.S. exports annually, and employs several hundred people.

"Cargo solicitors for steamship lines have been recommending to midwest shippers to use ports other than New York because of the onerous uncertainties of the law."

Because the State of New York has assumed the burden of implementing Congressional policy, the cost has been great. It will be greater.

In 1974, United States exports to the Arab countries had a value of $3.4 billion. In 1975, the projected figure is between $6 and $7 billion. In the past, a very large portion of this traffic moved through the Port of New York. There is good reason to believe that much of the future traffic to the Persian Gulf and the Red Sea, which very likely will be the richest trade route in the world for the next 10 years, will be diverted from the Port of New York. The effect on workers throughout the State and region could be devastating.

Next year Maryland will face similar strains. And other states, as we have already pointed out, may follow. In fact, even though the Maryland boycott law will not take effect until next January, international shippers who have historically utilized that major port have already cautioned that instead of researching the statute to determine whether or not it could effect them, will just take the simpler course of diverting their business from Baltimore to ports where there are no so-called state anti-discrimination laws.

The confusion that results from a multitude of diverse state and federal laws cannot be good for international commerce and thus our American ports. And, a uniform approach can only be achieved through federal action.

While legal counsel has advised me that federal legislation would off-set the local statutes, they have urged a specific preemption provision to eliminate all possible doubt.

I thank you for this opportunity to express our views and hope that legislation dealing with this problem will be enacted.

Chairman MORGAN. As our next witnesses, we have at the table Mr. Edwin L. Jones, president of the J. A. Jones Construction co., and Mr. Peter Guttman.

Mr. Jones, we are going to let you lead off as the first witness.

STATEMENT OF EDWIN L. JONES, JR., PRESIDENT OF J. A. JONES CONSTRUCTION CO., REPRESENTING THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

Mr. JONES. Thank you, Mr. Chairman.

My name is Edwin L. Jones, Jr. I am president of the J. A. Jones Co., Inc., of Charlottee, N.C. We are construction contractors and operate extensively throughout the United States, in many foreign countries, and are presently engaged in construction work in Saudi Arabia in excess of $400 million.

I appear here today representing the Associated General Contractors, of America and am accompanied by Richard C. Creighton, assistant executive director of that organization.

I am also speaking today for the National Constructors Association, an organization composed of 46 international engineering and construction firms who performed approximately $15 billion worth of overseas work in 1975. That organization fully shares our concerns and our views regarding this proposed legislation.

I have a letter from NCA to AGC, which I ask be made a part of the record of these hearings.

[The letter referred to follows:]

NATIONAL CONSTRUCTORS ASSOCIATION,
Washington, D.C., June 9, 1976.

MR. JAMES M. SPROUSE,
Executive Vice President, Associated General Contractors of America, Washington, D.C.

DEAR JIM: The National Constructors Association shares the concerns which your organization has expressed in its opposition to the Anti-Boycott proposals which are currently pending before the Congress. Our members which perform overseas work are vitally interested in assuring an American presence in all international markets, and feel that this pending legislation would be severely detrimental to the attainment of that objective. We also agree that the problems of discrimination under this boycott are much more suited to resolution through diplomatic channels as a foreign policy problem.

Therefore, in your testimony before the House Committee on International Relations tomorrow, you may indicate that the National Constructors Association fully supports your statement on this matter. It may assist you to know that the NCA is composed of 46 international-engineering and construction firms which performed approximately $15 billion worth of overseas work in 1975. We are unable to ascertain exactly how much of this work is performed in areas which would be affected by this legislation, although it would appear to be a substantial portion.

Very truly yours,

C. R. FITZGERALD, *President.*

ASSOCIATED GENERAL CONTRACTORS

Mr. JONES. The Associated General Contractors of America is a national trade association representing 8,100 general contracting construction firms, with 114 chapters throughout the 50 States, the District of Columbia, and Puerto Rico. In addition, AGC has an associate membership of some 17,500 subcontractors, suppliers and other firms closely related to general contractors.

AGC members put into place 60 percent of all contract construction done annually in the United States and roughly one-third of all international construction done by American firms.

AGC and our 8,100 member companies are firmly opposed to discrimination of any type based on religious or ethnic factors. AGC has long advocated equal opportunity with regard to both hiring and training of all employees regardless of race, color, creed, national origin, or sex. Discrimination against individuals or firms on this basis should not be tolerated.

OPPOSITION TO ANTIBOYCOTT LEGISLATION

However, AGC does oppose antiboycott legislation which is currently being considered in both Houses of Congress because we feel that it would have a seriously detrimental effect on the future role of the American businessman in the vast and rapidly developing Middle East market. This, in turn, would adversely affect the total American economy.

Legislation designed in such a manner would prevent American construction companies from working abroad in certain countries, and would have a serious effect on the domestic employment situation for U.S. suppliers and construction companies which are now experiencing the highest unemployment rate of any industry in this Nation.

AGC feels that the boycott problem is not one to be solved by the American businessman or by legislation, but one that should be approached as a foreign policy problem and resolved through normal diplomatic channels.

ECONOMIC LOSS FROM ANTIBOYCOTT LEGISLATION

AGC opposes such restrictive legislation based on the following facts:

One: The planned construction programs in the oil-rich nations during the next 5 years are estimated to exceed $200 billion. It is expected that American firms would participate in at least 15 percent of this market or approximately $30 billion. Secretary Simon said yesterday before this committee he estimated 20 percent or some $40 billion worth.

Two: The magnitude of the construction programs is attracting competition from competent international contractors on a worldwide basis.

Three: U.S. contractors can successfully compete if not restricted by this proposed legislation. For example, the trade press reports that 39 of the larger U.S. contractors were awarded contracts in excess of $7.5 billion in the Middle East in 1975.

Four: U.S. contractors, when successful in obtaining international contracts, purchase goods and services from other U.S. firms which, in the future, could vastly improve our balance of payments and greatly contribute to the reduction of unemployment in construction and its allied fields.

Five: The forfeiture of this vast construction market to other nations would have longlasting adverse effects on the ability of U.S. businessmen to compete in future international markets.

Six: The denial to U.S. industry of the opportunity to participate in the oil-rich market areas would have no stabilizing benefits to the prospects of peace in the Middle East.

Seven: It has been estimated that the adoption of legislation requiring all U.S. industry to refuse to adhere to the boycott provisions would result in the loss of 800,000 jobs throughout the United States.

Eight: The boycott is imposed worldwide and no other country has legislated against it.

Nine: Arab countries do not need the services of American construction firms, for Korean, Pakistani, Italian, French, German, English, Nationalist Chinese, Greeks, and others are capable of building 100 percent of the requirements of the Arabs and furnish all equipment and materials without buying any American equipment and materials.

Ten: All purchase of equipment, matetrial, and services produce more purchases and more jobs for other Americans of every race, color, or religion, and taxes paid provide welfare help for many Americans of all races, color, or religion.

In other words, sir, this turns tax eaters into taxpayers, if we can provide jobs for Americans. If we cannot, it turns taxpayers into tax eaters.

The choice is yours.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Jones follows:]

PREPARED STATEMENT OF EDWIN L. JONES, JR., REPRESENTING THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

The Associated General Contractors of America is a national trade association representing 8,000 general contracting construction firms, with 114 chapters throughout the 50 states, the District of Columbia and Puerto Rico. In addition, AGC has an associate membership of some 17,500 subcontractors, suppliers and other firms closely related to general contractors. AGC members put into place 80 percent af all contract construction done annually in the United States and roughly a third of all international construction done by American firms.

AGC and our 8,000 member companies are firmly opposed to discrimination of any type based on religious or ethnic factors. AGC has long advocated equal opportunity with regard to both hiring and training of all employees regardless of race, color, creed, national origin or sex. Discrimination against individuals or firms on this basis should not be tolerated.

However, AGC does oppose anti-boycott legislation which is currently being considered in both Houses of Congress because we feel that it would have a seriously detrimental effect on the future role of the American businessman in the vast and rapidly developing Middle East market. This, in turn, would adversely affect the total American economy.

Legislation designed in such a manner would prevent American construction companies from working abroad in certain countries and would have a serious effect on the domestic employment situation for U.S. suppliers and construction companies which are now experiencing the highest unemployment rate of any industry in this nation.

AGC feels that the boycott problem is not one to be solved by the American businessman or by legislation, but one that should be approached as a foreign policy problem and resolved through normal diplomatic channels.

AGC opposes such restrictive legislation based on the following facts:

(1) The planned construction programs in the oil-rich nations during the next 5 years are estimated to exceed $200 billion. It is expected that American firms would participate in at least 15 percent of the market or approximately $30 billion.

(2) The magnitude of the construction programs is attracting competition from competent international contractors on a world-wide basis.

(3) U.S. contractors can successfully compete if not restricted by this proposed legislation. For example, the trade press reports that 39 of the larger U.S. contractors were awarded contracts in excess of $7.5 billion in the Middle East in 1975.

(4) U.S. contractors, when successful in obtaining international contracts, purchase goods and services from other U.S. firms which, in the future, could vastly improve our balance of payments and greatly contribute to the reduction of unemployment in construction and its allied fields.

(5) The forfeiture of this vast construction market to other nationals would have long-lasting adverse effects on the ability of U.S. businessmen to compete in future international markets.

(6) The denial to U.S. industry of the opportunity to participate in the oil-rich market areas would have no stabilizing benefits to the prospects of peace in the Middle East.

(7) It has been estimated that the adoption of legislation requiring all U.S. industry to refuse to adhere to the boycott provisions would result in the loss of 800,000 jobs throughout the United States.

(8) The boycott is imposed world-wide and no other country has legislated against it.

The boycott and its related effects are complex issues swayed by emotional considerations. We should not over-react and adopt punitive legislation that is clearly not in the best interest of our nation and all of its people.

We urge the Congress not to mandate a policy of confrontation which would work to the detriment of U.S. interest.

Chairman MORGAN. Mr. Guttmann.

STATEMENT OF H. PETER GUTTMANN, PAST PRESIDENT OF INTERNATIONAL ENGINEERING COUNCIL, ON BEHALF OF THE AMERICAN CONSULTING ENGINEERS COUNCIL

Mr. GUTTMANN. Mr. Chairman, my name is H. Peter Guttmann. I am a vice president and principal of Stanley Consultants, Inc., of Muscatine, Iowa, a large firm of international consultants engaged in engineering, architecture, management, and planning.

I appear today on behalf of the American Consulting Engineers Council, a professional association representing over 3,000 consulting engineering firms in private practice, and in my capacity as immediate past chairman of the council's International Engineering Committee.

With me, on my left, to your right, is Mr. William J. Birkhofer, Director of Business Development for Winzler and Kelly, Inc., of Eureka, Calif., a member of the International Engineering Committee of American Consulting Engineers Council, and to my right, your left, sir, Mr. Ronald M. Marcus, the director of Federal programs of the American Consulting Engineers Council.

ACEC appreciates this opportunity to appear. Our purpose in appearing is not to urge you to take a specific position for or against the amendments to the Export Administration Act of 1969 directed at the boycott, but rather to share with you some of the experience of

the engineering profession and to try to provide you with additional information which may be helpful to you in your decisionmaking processes.

While I am an engineer and do not purport to be an expert on international law or the reach or impact of the U.S. antitrust laws, I have had firsthand professional involvement in the Middle East and Africa over some 30 years.

IMPACT OF ENGINEERING ACTIVITY OVERSEAS

Engineers from developed countries functioning in developing countries—which the Arab States, although affluent with recent petroleum revenues, really are—have wide-ranging impact, helping to set economic forces in motion which may result in the export of goods and services, construction equipment, building materials, capital goods, follow-on assistance and the like.

The engineering function on any one foreign project may be relatively small in terms of dollars, but the materials and equipment specified in foreign work does, in the aggregate, account for billions of dollars in American sales to foreign countries. The services of U.S. design firms assist in the orderly transfer of technology and in the economic development of the less well-developed areas of the world.

The following figures are based upon figures contained in an article in the May 20, 1976, issue of Engineering News Record describing the 500 largest American design firms:

Of the 500 largest firms, 187 reported $436 million in 1975 billings with respect to work in 135 foreign countries. In all, billings to foreign clients during 1975 amounted to 14 percent of the total volume of business signed up by top design firms last year. Furthermore, of the 187 design firms reporting foreign work, 103 firms billed $180.5 million to owners in Arab nations, twice as many as in 1974. Total 1975 billings to Arab countries represents 41.1 percent of the total foreign billings for the past year. In terms of employment, American design firms are estimated to have tens of thousands of people on their payroll for Mideast work.

MIDDLE EAST MARKET

The Arab States have provided a fertile market for U.S. engineering firms. Due to the fourfold increases in the price of imported oil brought about by OPEC, Saudi Arabia, Kuwait, the United Arab Emirates, Iraq, and other nations in the Middle East-African community have almost overnight become the world's wealthiest nations.

The large amounts of wealth they have accumulated has given these nations the means to do something about development-related problems and the demand for public services and facilities—new buildings, roads, bridges, water and sewage systems, powerplants and the like. The technical know-how required to operate and maintain these is very substantial. In Saudi Arabia, where the current Five-Year Plan calls for an expenditure of some $143.5 billion, the United States stands to harvest at least 30 percent of the business related to the Saudi development effort between now and 1980.

American engineers and constructors involved in the Middle East have been in a position to render substantial assistance to American

manufacturer of capital and consumer goods by introducing U.S. products into the Middle East, and, as a result, have substantially increased demand for a wide variety of U.S. goods and services.

The growth in exports of American goods and technology at high levels to the OPEC nations represents, of course, one important means of alleviating the devastating effect of OPEC's high foreign oil prices on our balance of trade. We face, however, keen competition for "petrodollars."

COMPETITION FROM OTHER COUNTRIES

In most instances the goods and services provided by American companies are readily offered by the British, French, Swiss, Scandinavians, Germans, or Japanese. In the field of professional engineering, for example, there is no question that many nations of Western Europe and Japan have the technical expertise and experience to perform the same high technology services provided by American firms. And while it is true that American goods and technology are historically preferred, the assumption that the Arab world may abandon its commitment to the boycott simply to continue its access to American market appears to be without substantial foundation.

So, the United States of America is not alone in its interest in the Middle East. Other nations, particularly those of the oil-deficient European community and Japan, have an even stronger presence throughout the Middle East. Engineers and businessmen from these nations are present there and seeking opportunities in direct competition with Americans.

To strengthen the competitive stance of their businessmen and professionals, foreign governments today employ a variety of methods literally to underwrite the business development costs of their respective private business communities. They offer government-to-government guarantees and inflation insurance, tax incentives and highly attractive export promotion programs. In fact, most foreign governments operating in the Middle East and elsewhere do far more to assist their businessmen in the business development effort than does the United States.

That, however, is not a bone of contention I wish to pick with you here today.

IMPACT OF ANTIBOYCOTT MEASURES

We in the professional engineering community who have been working in the Middle East expect that legislative provisions designed to make cooperation and compliance by American firms in the economic boycott of Israel subject to additional legal barriers, would have significant impact upon American exports in this area. ACEC does not say this necessarily determines what the U.S. policy should be with respect to the proposed amendments, but does wish the decision to be based upon full consideration of the possible consequences.

The normal risks and hardships of doing business in the international marketplace and particularly the Middle East and Africa already are extremely inhibiting. Adding to these the proposed boycott-related restrictions may, for some engineering firms and others now

engaged in Mideast commerce, become the straws that break the camel's back.

By this I mean that we should face the fact that for some U.S. companies which have the technical know-how, the financial resources, the best prospects for future business in the Middle East and a keen interest in such work, additional boycott-related restrictions might become the cause for relocation of their international operations to overseas locations so as to be free to compete for Middle East engineering assignments. Others may abandon Middle East activities. Firms newly exploring Middle East opportunities will not venture further. The net result of such actions would, of course, be a loss of taxes, foreign exchange income, and jobs in the United States.

PROTECTION AGAINST DISCRIMINATION

I want to make my position and the position of the American Consulting Engineers Council unmistakably clear—we view the protection of American citizens against discrimination on the basis of race, color, sex, or religion as of paramount importance. We applaud congressional and executive branch efforts to protect the rights of American citizens in that regard but are hopeful that the Congress in its efforts can find a solution which does not necessarily foreclose American engineers and other American interests from activities in the growing Middle East marketplace.

I am not suggesting that I think we will see an end to the boycott in the near future. I am suggesting, however, that of the three levels at which the boycott is applied—primary, secondary and tertiary—it is at the tertiary level where the possibility for direct discrimination against American citizens has existed and it is at this level where I believe some progress is already being made.

As to the application of the boycott at the primary and secondary levels, that is, direct refusal of the Arab States to deal with Israel, and the combined pressures of the Arab States on third parties not to deal with Israel, I would characterize these activities as an unfortunate, but not entirely unexpected, consequence of the continuing state of war between the Arabs and the Israelis. In my view, the only effective key to ending the boycott is the arrival at a fair settlement for a lasting peace in the Middle East at the diplomatic level.

COMPLIANCE WITH THE BOYCOTT

A number of antiboycott measures before the Congress would add specific prohibitions directed at the compliance by U.S. firms with the boycott against Israel. We believe that compliance by a U.S. business with an Arab boycott-related request does not necessarily mean that the firm is actively participating in the boycott of Israel or condones it.

To illustrate this point, let me give you an example: After many years in domestic business, ABC Company has made a decision to enter the international market. Following extensive market research, the company's management has determined that, on the basis of demand and ability to pay for the goods or services it offers, Saudi Arabia represents the most solid potential market.

In registering itself with the various government ministries with which it hopes to do business, ABC Company learns that it must provide a certificate that it is not now doing any business in Israel, nor does it have any plans to do business there in the future. If faced with a provision prohibiting boycott compliance by a U.S. firm, a potential exporter of goods or services such as ABC Company could not furnish the certificate of its intent not to do business in Israel, even though the reason for ABC's decision involves nothing more than its basic sound market strategy. Hence, the ABC Company would be effectively precluded from doing business in Saudi Arabia.

ABSENCE OF MARKET IN ISRAEL FOR FOREIGN ENGINEERING FIRMS

This example constitutes a serious potential problem for many engineering firms offering professional design services and other companies involved in technology transfer, particularly, since as a practical matter, they usually cannot do business in or with Israel because Israel already has skilled engineers and technicians who offer the same services, usually at lower cost.

In Israel, U.S. professional design services are rarely used. In the international marketplace, Israelis compete successfully against U.S. firms as they enjoy considerable protection from their government. Israeli firms have even been known successfully to compete in the United States for U.S. AID financed projects.

On the other hand, the Arab nations are a desirable market, particularly owing to the lack of sufficient numbers of trained and qualified technical personnel, highly ambitious development plans and the Arab's ability to pay with the revenues they earn for the export of their petroleum.

Obviously there are other, more difficult, problems which may arise under certain aspects of the boycott. A U.S. company which might be asked, in effect, as a condition to doing business in the Middle East, not to acquire components or banking services or whatever from another U.S. company with Zionists or Israeli nationals as principals, would, of course, be faced with more serious problems.

DIPLOMATIC AND ECONOMIC DIPLOMACY

Based on my own extensive experience in the Middle East and Africa and the firsthand reports I receive regularly from associates and colleagues, I believe that a combination of political diplomacy—as practiced by our State Department and the Department of Treasury—and economic diplomacy—as practiced by American businessmen in their promotion of American goods and technology—is making considerable inroads in creating new bridges of communication and understanding between the United States and the Arab nations. We should not ignore the substantial progress we are making.

The success of the American business community can provide additional political leverage relating to the ongoing diplomatic efforts. Legislation having the practical effect of prohibiting U.S. business from effectively competing in the Middle East marketplace may be expected to undermine this progress, and this should be carefully considered in your deliberations.

In summary, Mr. Chairman, we believe that the freedom of American private enterprise to operate in any part of the world, Arab or Israeli, complying to the extent necessary with local custom and requirements, is important to continued trade in the Middle East and north Africa. This trade has been considered important to engineering firms and others and has made a major contribution to the U.S. balance of payments and for continued domestic employment and prosperity.

The relative freedom of American private enterprise in the Middle East has probably been, up to now, a positive contributing factor to progress in resolving the Arab-Israeli conflict—a conflict which has already lasted too long, cost too many lives and threatened world peace too many times. We feel that there must be legal safeguards to protect Americans from discrimination at home and abroad, that the boycott is a reality which must be faced and that it will probably end only when a fair settlement and lasting peace are negotiated and that more restrictive legislation or regulations designed to frustrate American acquiescence in the boycott as a condition of doing business in the Arab world may undermine the progress being made on the diplomatic and economic fronts.

We recommend, Mr. Chairman, that these considerations be kept in mind while your committee faces the difficult task of reconciling the various interests which could be affected by your policy decisions about proposed boycott-compliance amendments to legislation extending the Export Administration Act, and are hopeful that solutions may be found which do not preclude this growing area of U.S. international commerce.

Mr. Chairman, on behalf of the American Consulting Engineers Council, I thank you for providing us with this opportunity to appear before you at this late time in the morning.

This concludes my prepared statement, Mr. Chairman, and I would be pleased to respond to any questions you or your colleagues may have.

Thank you.

ECONOMIC IMPACT OF ANTIBOYCOTT MEASURES

Chairman MORGAN. Thank you, Mr. Guttmann. I have one question I am going to submit to both of you. I would like to get your versions of the answer. Previous witnesses—and you were both in the room—have stated that because the U.S. Corps of Engineers and the U.S. Department of Health, Education, and Welfare are participating in huge programs in Saudi Arabia and because of the superior quality of U.S. goods and services, Arab nations will not honor their boycott and continue to contract with U.S. companies. What is your reaction to such a statement?

Mr. JONES. Mr. Morgan, we have competed for two projects in Saudi Arabia against international competition where the bidding was handled by the Corps of Engineers. One was part of the SNEP program, Saudi Arabia naval program, at Jidda; the other under the same program at Jabale. In both cases the contracts went to Korean firms. The fact that the Corps of Engineers was involved did not help us become the successful bidder. I believe that answers your question.

Mr. GUTTMANN. If I may add, Mr. Chairman, Secretary Simon brought out the fact that at this moment we are getting perhaps 20 percent of the Saudi Arabian business. That is only one-fifth. Somebody else is getting four-fifths.

Chairman MORGAN. Mr. Gilman.

IMPORTANCE OF MIDDLE EAST MARKET

Mr. GILMAN. Thank you, Mr. Chairman, gentlemen, in listening to your testimony, apparently the main thrust of your testimony is essentially that because of the magnitude of the Arab market, the amount of potential sales that are out in that part of the world; that our Nation should close its eyes to economic blackmail. Do you advocate that, because of the size of a potential market, we should do business with any nation that may be hostile to our Nation's best interests?

Mr. JONES. Mr. Gilman, if you are building a house in your hometown and you advertise for bids and you say that you want Carrier products for your heating and air conditioning, all contractors bidding on that house would know what they had to bid because of the restrictions which you place.

Mr. GILMAN. If I might interrupt, that is somewhat diffierent than saying all contractors who bid must hire only white employees. Then we have a different proposition. We are not talking about mechanical equipment; we are talking about human beings, we are talking about some fundamental precepts and principles of human rights that our Nation has stood for, for a long period of time.

Let us consider the tremendous market potential out in Vietnam today. Do you advocate that we open up the door and do business with them today because of the magnitude of that market or are there some other problems we should be concerned about that are more fundamental?

Mr. JONES. I do not consider the Saudi Arabian Government is a threat to the sovereignty of the U.S. Government or its citizens. The Vietnam Government has been a threat and a third-rate nation caused us to turn our tail and run from Vietnam.

Mr. GILMAN. Both of you gentlemen——

Mr. JONES. I do not recommend that we go in and do work with a country that did that to the United States.

BOYCOTT IS WRONG

Mr. GILMAN. Both of you gentlemen have advocated in your testimony that the boycott is fundamentally wrong and you seem to set forth that precept. Am I correct? You don't agree with the boycott principle? Do I read that correctly?

Mr. JONES. That is correct, sir. But I maintain even you as an owner would have the right to specify the products that would go in your building. The Saudi Arabian Government has the same right to specify how their dollars would be spent.

IMPORTANCE OF MIDDLE EAST MARKET

Mr. GILMAN. We are not talking about products and you and I know we are talking about some basic, fundamental principles here of the

right of an employee to be employed, the right of an individual to go out and seek employment, the right to be free from religious and racial discrimination, some of the fundamental precepts which we believe in this Nation; and you are saying, because of the potential profits—the magnitude of the market, let us just close our eyes to that, there are a lot of dollars out there. Can we close our eyes to many of the problems out in the world, merely because there are a lot of dollars in many of the nations? Do I fully understand what you are saying? Because of the dollar value of the business available, should we close our eyes to these many problems?

Mr. JONES. If I may, I would like to restate the position this way: As an American, I am concerned about the millions who are unemployed. Over 7 percent of our work force is unemployed in America today. I think those millions have rights also. Are we here going to take action deliberately to swell the rolls of the unemployed and prevent them from having an opportunity to obtain gainful employment?

Do not forget, sir, that every time 100,000 people are hired and put to work in America this reduces the unemployment by that amount and it also makes it easier for the rest to find work because money has a way of turning over, and the tax dollars which are being spent, the material dollars, the equipment dollars which are being spent in America, which roll over, are absolutely colorblind. They are blind as far as any boycott provisions. They are completely blind as far as how the U.S. Government and the State governments spend their tax dollars. The Arabs have no objections to the second and third and fourth and fifth use of them or the use of the tax dollars generated.

Mr. GILMAN. And you are advocating that our Government should become colorblind to the underlying problem here because of all the green dollars that could be flowing in?

Mr. JONES. I think the Government of the United States should respect the soverign rights of other nations.

Chairman MORGAN. The time of the gentleman from New York has expired.

Mr. Bingham.

Mr. BINGHAM. I think Mr. Gilman has brought out a fundamental point here very well, and I think the answers to his questions are clear, although the witnesses have not expressed them in quite the same terms.

VISAS FOR MIDDLE EASTERN COUNTRIES

Let me ask you this, Mr. Jones—you, as the head of a contracting firm: How do you handle the matter of employment of persons who are going out to work on your jobs in Saudi Arabia in terms of Saudi Arabia's visa requirements and objections to what they call Zionists?

Mr. JONES. To the best of my knowledge we have not had a single Jew or Zionist apply for work in Saudi Arabia, so it has not been a problem, sir.

Mr. BINGHAM. And how would you handle it if they did?

Mr. JONES. I am not sure what we would do. I think, though, that the controlling factor would be whether or not we could secure a visa for that employee or potential employee. If we cannot secure a visa for him there is no way we can get him into that country.

Mr. BINGHAM. What is the experience of your members in this regard, Mr. Guttmann?

Mr. GUTTMANN. In my own firm, we have never had any difficulties on visas for Saudi Arabia, Kuwait, and we have had Jewish members of our firm working in those countries. In the American Consulting Engineers Council we have some firms with Jewish ownership that are presently engaged in the Middle East working in countries that have the boycott restrictions. There are various forms of applying the boycott and this is perhaps a point that has not been cleared up properly in previous testimony.

We have heard about the various boycotts and the different applications. I think the Arabs as a whole have an overall national goal, which is to win this war, but they also have their own, let us call it local identity, as to how they want to go about channeling their priorities. So what may not be effective or acceptable in Saudi Arabia may be in Algeria or Kuwait. I do not know what the people in Morocco would do.

Therefore, in the application of the boycott, the Arabs feel very much that they are in the same position as the United States of America, where during World War II, we not only blacklisted the Axis powers and their nationals but every national of another country who did business with them. They do not see this as a discrimination against the Jewish people, the Jewish religion, but they look at it as a defense against Zionists and the Israeli nation.

STATEMENT OF WILLIAM BIRKHOFER, DIRECTOR OF BUSINESS DEVELOPMENT, WINZLER AND KELLY CONSULTING ENGINEERS, CALIFORNIA

Mr. BIRKHOFER. Might I comment also on that?

Mr. BINGHAM. Would you identify yourself?

Mr. BIRKHOFER. For the record, my name is William Birkhofer, director of business development for the firm of Winzler and Kelly Consulting Engineers from California.

We have wrestled with the question of what action we would take in the event that we are faced with a situation in which we had a Jewish employee in our firm who wished to proceed to Saudi Arabia, for example, in an effort to carry out some element of a project we are working on.

We, in checking with the State Department, were advised that they were prepared to intercede on our behalf to work to insure that a visa would be granted to that employee. We would plan to follow that course of action.

I might add also for the committee's benefit—and this comes to me secondhand, so perhaps it might bear checking out—it is our understanding as of the present time certificates of faith are no longer required as part of a visa requirement of the Saudi Arabian Embassy.

ANTI-JEWISH ASPECT OF THE BOYCOTT

Mr. BINGHAM. Let me ask you this final question. You both indicated yes, you were opposed to the boycott. You agree with the statement which appears in the law of the land the U.S. Government policy is to oppose such boycotts, to encourage firms to refuse to cooperate

with it. That was the law in 1969. Yet, you say that in order to preserve the business that is now going on that we have to forget about that opposition and those moral considerations.

How would you feel if the boycott were explicitly applied to firms that have Jewish management or that have Jewish employees taking part in their operations, would you still say that we should do the business and never mind the discrimination that boycott imposed?

Mr. JONES. Our own firm has a man who happens to be of the Jewish faith on our board of directors and in a very responsible management position. This has not been a problem for us in the past, and if it became a problem in the future, we would have to respect his rights first.

Mr. BINGHAM. In other words, you consider that this just isn't bad enough in terms of the moral question involved for us to take a firm stand by giving teeth to the policy that has been adopted by the Government and which you agree with, although if it were extended to personal discrimination you would take a different position?

Mr. JONES. That is correct.

Mr. GUTTMANN. I would submit, Mr. Bingham, that in general terms the Arabs will come to those who can deliver them the goods and services that they need most and they will not consider who is Jewish; but they will object to Zionists or Israelis. That is one of the differences.

I would also say that the Arabs are very careful to get the best for their petrodollars. You have to be very competitive in order to get contracts in the Arab world today, and I feel that sometimes the Arab boycott has been used as a pretext when firms that were not that competitive have been turned down.

Mr. BINGHAM. Well, Mr. Guttmann, we agree with your conclusion with regard to the Arabs' concern to get American technology, to get the best deals, and where we differ is in the estimate of what would happen if we made it explicit and put teeth in the law to the policy that we have had on the books now for 8 years without much effect. That is where we differ, is the effect that that would have.

Thank you.

ECONOMIC IMPACT OF ANTIBOYCOTT MEASURES

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

I take it you don't agree that if this law is passed, or these amendments are adopted, that the Arabs would continue to do business with your firms.

Mr. GUTTMANN. Yes.

Mr. LAGOMARSINO. You think they would stop doing business with you?

Mr. GUTTMANN. Yes, sir.

Mr. LAGOMARSINO. And you believe that, in spite of the fact that the United States has certainly not stopped doing something that I am sure the Arabs are much more concerned about; namely, supplying the Israelis with weapons, many of them free, without even cost? How do you explain the Arabs doing business with our firms now even though we are engaged in something that I am sure they consider much more serious than commercial transactions?

IMPACT OF U.S. ARMS SALES TO ISRAEL

Mr. GUTTMANN. I would say that in the arms business the United States is second to none. Nobody else in the world can deliver what the Arab nations and the Israelis think they need to conduct their war to a victorious end.

There, in fact, is a small correction I would like to make to previous testimony. Our Corps of Engineers does not work as agent for the Saudi Arabians on the construction of schools and educational facilities. Our Corps of Engineers is only involved with the Saudi Arabia Ministry of Defense on defense-related matters.

So, the Arabs will probably come to us for arms even if the boycott restrictions are reenforced, but arms are not——

Mr. LAGOMARSINO. I am not talking about arms as arms, I am not talking about us selling arms to the Arabs, I am talking about how the Arabs perceive our selling of arms to the Israelis, which have far exceeded the sale of arms to the Arab nations.

If they are concerned about firms doing business with Israel, commercial firms, I would think that they would be much more concerned about our Government, as it does, selling arms, many of them as I say for nothing, for free, to Israel? I think there is little doubt that our doing so probably has saved the State of Israel from extinction or at least from not being the same state that it is today.

IMPACT OF PUBLIC OPINION

Mr. GUTTMANN. I think the Arabs fully recognize that efforts in committees such as yours and witnesses whom we had before, that public opinion of the United States demands such a thi _. They are not blind to political reality.

Mr. LAGOMARSINO. They don't feel public opinion does demand something be done about the boycott situation?

Mr. GUTTMANN. As far as that is concerned, they think that the power of money is the power that will conduct the future of the world.

Mr. LAGOMARSINO. Let me ask you about one other thing. This has been mentioned by some witnesses and——

Mr. GILMAN. Would the gentleman yield?

Mr. LAGOMARSINO. Yes.

Mr. GILMAN. Again, may I ask you, do you agree with the premise that the power of money should control our thinking?

Mr. GUTTMANN. Certainly not. We should try to educate them to change that stance.

Mr. GILMAN. We have been trying to educate them since 1946 or 1947 and apparently we have met with very little success with regard to their boycott and that is why we are here today discussing these proposed measures.

Mr. GUTTMANN. We also had, Mr. Gilman, 20 years of warfare in the Middle East and that is a bad time to come through with educational efforts in that respect. We are just starting to reach them now because only now sufficient Americans are really going into Saudi Arabia.

Up to now our business presence in Saudi Arabia, for example, was confined to small settlements of the oil companies. There was no intermingling really between Americans and Saudis. Now there is.

I think we are at the crucial point of getting the message across.

Mr. GILMAN. I thank the gentleman for yielding.

IMPACT OF STATE ANTIBOYCOTT LAWS

Mr. LAGOMARSINO. Just one further question. Several witnesses have brought this up and others have commented on it in statements that we have; that is, the argument that inasmuch as the State of New York, the State of Maryland, have adopted legislation prohibiting compliance with boycotts and other States are considering this, that it would be far better to have a uniform Federal law speaking to the subject, so that the situation would not be unfair to those who operate their businesses in those particular States. Would you care to comment on that? I think that was something we have not heard anybody speak on the other side of and I wondered if you have any thoughts about it?

Mr. GUTTMANN. I saw the original article on this in the New York Times, I think, 2 or 3 weeks ago and the Director of the Port Authority of New York commented on the effects of the Lisa Law, starting that they had lost several million tons in shipments and that obviously the shipments had emigrated somewhere else.

Since then, Maryland has enacted the law so I would presume that a lot of the Middle East shipments from the eastern part of our country are going down to the gulf coast. There are two ways. Let the State legislatures handle this on their own level, in which case I would presume that the New York people one day will wake up to the fact that they are trying to unrealistically enforce something alone in the whole world because all of the rest of the world is shipping; and it may happen that the unemployment caused by the law in Illinois will awaken the people in Illinois that this is not the way to tackle a diplomatic international problem.

Mr. LAGOMARSINO. Do any of the rest of you care to comment?

Mr. JONES. If it is true that the New York port has lost 2 million tons as a result of this law, then they have also lost jobs. If we passed a national law that says the same thing, it will simply impact that to cause additional jobs to be lost over the Nation and will give more employment for the ports of Germany, Holland, Franch, England, Japan, and others.

Chairman MORGAN. The time has expired. Thank you, gentlemen.

Our final witness today is Mr. Reuben Johnson, Director of Legislative Services for the National Farmers Union.

Chairman MORGAN. Mr. Gilman.

Mr. GILMAN. I intend to submit a statement for the record and would like to have permission to insert it.

Chairman MORGAN. Without objection, the gentleman's statement will be made a permanent part of the record.

[Mr. Gilman's statement subsequently submitted follows:]

STATEMENT OF HON. BENJAMIN A. GILMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I welcome this opportunity to appear before the Committee on International Relations to express my strong support for proposed legislation to end the discriminatory practices of foreign trade boycotts.

The implementation of economic boycotts against the State of Israel for political purposes has been a common practice among the Arab states for more than 25 years. Generally, these efforts have been met with little or position due

to their lack of enforcement and success. However, with the imposition of the oil embargo, new strength and life was added to these efforts. The shocking results of these new efforts have revealed broad scale cooperation by American business to the threats and demands of one nation against another.

The Arab embargo against Israel is not the center of this controversy. The right of one nation to refuse direct interaction with another is not at question. What is at stake is the extension of this embargo to U.S. firms in an attempt to prevent them from trading with Israel. This type of boycott extends far beyond any recognized right of one nation to prevent trade with its enemies.

This form of economic blackmail must not be allowed to continue. Even the slightest forms of cooperation encourage more and more demands that extend far beyond economic matters and take aim at U.S. foreign policy. This not so subtle attack which pits one American against another because of his racial, ethnic or religious background must be stopped.

As a recent editorial in the Charlotte Observer points out, the issue of Arab boycotts is much greater than the struggle of one nation against another.

"The larger question, however is one of morality. The Arab boycott and blacklisting of firms has been aimed not only at Israel but also against American Jews. If an Arab nation wants to do business with an American firm, it can abide by this country's rules of decency and fair play—or go elsewhere. We doubt that those countries, which are being developed largely by American enterprise would go elsewhere."

The United States as a nation must take a stand on this issue. We must not allow foreign governments to manipulate the internal affairs of this country. We must remove the pressures that are brought to bear on individual companies to comply or face the repercussions of discrimination. The solution to this problem, as the Observer's Editorial states, is: "the best way to counter the Arab government's pressures is to have a law on the books which requires them not to yield. Then they could simply tell Arab governments: We have no choice but to comply with the American law."

We can and should prevent boycott compliance and the appropriate vehicle is now before us, the Export Administration Act.

While the present U.S. policy states clearly its opposition to such restrictive trade policies and boycotts, the fact that these practices do occur demonstrates the need for stronger federal laws. The policy statements in the current Export Administration Act are commendable but ineffective. We need not only to discourage such practices, but to prohibit them. I urge the adoption of amendments to outlaw the disclosure of discriminatory information and participation in the restrictive trade practices of foreign nations including both secondary and tertiary boycotts.

Currently, there are several pieces of legislation before this committee aimed at the heart of this problem. I am a co-sponsor of H. Con. Res. 173, offered by Congressman Addabbo; H.R. 6431 offered by Congressman Drinan and H.R. 11463 offered by Congressman Koch. In addition Congressmen Bingham and Rosenthal have both offered constructive proposals that deserve your consideration and support.

As we proceed to consider the Export Administration Act, I am convinced that from these proposals and the committee deliberations that will follow, an effective policy against the discriminatory practices of boycotts can be achieved. It is only fitting that in this bicentennial year, as we reflect on the founding principles of this great nation that we apply those same concepts of freedom from repression, non-discrimination and rights of religious tolerance to the conduct of commerce.

Accordingly, I urge my colleagues on this committee to support the concepts contained in the anti-boycott proposals before you in order to end the devisive effects of these discriminatory acts.

Mr. Chairman, I request permission to insert, in full, at this point in the Record, the Charlotte Observer Editorial dated June 14th, 1976, entitled "Arab Intrusion".

[Editorial From the Charlotte Observer, June 14, 1976]

ARAB INTRUSION—JONES' ADVICE IS WRONG

Neither common decency nor the best interests of the United States are served by the practices acknowledged by Edwin L. Jones, Jr., of Charlotte in his testimony Thursday to a House committee. Mr. Jones, president of J.A. Jones Con-

struction Co., said his company in some instances has gone along with demands by Arab countries to boycott Israel.

Why? Not to create jobs for Americans, but to make money. The company does a substantial business in Saudi Arabia.

Mr. Jones's testimony showed that while the company is responsive to the Arab countries' foreign policy requirments it is ignoring American policy. We think the company has no business acting, for whatever reason, in a matter that is against the policy of the United States.

Arab pressures of various kinds have been brought to bear upon American companies. Many firms have been blacklisted because they had Jewish ownership or high-level Jewish executives; some of the biggest corporations in America have been blacklisted for other reasons, chief among which, apparently, is that they do business with Israel.

In other words, some of the Arab countries not only have told American companies they cannot do business with both Israel and Arab nations; they also have brought subtle pressures to bear which might persuade some companies to violate American law by discriminatory practices within. Congress has declared the first part of this to be against American policy; the second part is against the law.

As we said some time ago, this is a reprehensible and unacceptable intrusion in American affairs. No American company should accept such interference.

In his testimony before the House International Relations Committee, Mr. Jones not only acknowledged that his company has yielded to the boycott-Israel pressure but also urged Congress not to enact proposed legislation which would make this a punishable violation of law rather than simply an expression of disregard for American policy.

He should have been on the opposite side, as are many American business executives. They know that the best way to counter the Arab government's pressures is to have a law on the books which requires them not to yield. Then they could simply tell Arab governments: We have no choice but to comply with American law.

Would that put them out of business in the Arab world? It is conceivable, though unlikely, that in a few cases it would. But it is virtually inconceivable that those developing countries would choose to do without American technology, American scientific development and American management know-how. Such a law, in our view, overnight would break the back of this impudent intrusion in American life.

The larger question, however, is one of morality. The Arab boycott and blacklisting of firms has been aimed not only at Israel but also against American Jews. If an Arab nation wants to do business with an American firm, it can abide by this country's rules of decency and fair play—or go elsewhere. We doubt that those countries, which are being developed largely by American enterprise would go elsewhere.

Congress should make American policy—not a bunch of oil kings and sheiks.

STATEMENT OF REUBEN JOHNSON, DIRECTOR OF LEGISLATIVE SERVICES, NATIONAL FARMERS UNION

Mr. JOHNSON. Let me say first, Mr. Chairman, that Farmers Union sympathizes fully and warmly with the objective of insuring adequate supplies of food and fiber for the American people—at all times—and specifically in times of worldwide scarcity.

We regard it as intolerable and unnecessary for the United States to have to choose between supplying its export customers or providing ample farm products for the American people.

The Farmers Union recommends that the Nation adopt a national food policy of assured abundance that will make it unnecessary ever again to be confronted with such an intolerable choice.

We would not have been in the precarious situation through which we have come in recent years, except for the conscious decisions by the Nixon and Ford administrations since 1972 to destroy the remaining elements of the farm price and income stabilization programs

and to get rid of the reserves which existed in the form of commodities under price support loan and storage.

IMPORTANCE OF EXPORT MARKET

In a context of all-out production, farmers must be able to export to live. It is as simple as that. Major parts of our wheat, rice, soybean, feed grains, cotton, and other crops must be exported; in most of these commodities the percentage exported has been in the range of 40 to 60 percent.

The alternative to access to world markets is a major cutback in cropland acres. Without export markets in 1976, our farmers would have to take about 100 million acres out of cropping use. Otherwise, the flood of commodities will simply destroy markets and depress prices to a point of bankruptcy for producers.

ADEQUATE RESERVES

To service our domestic and export customers—and alleviate fears of shortages—adequate reserves of storable food products should be maintained as a public policy. All of this, however, must be done as part of an overall food policy, and this is something which we do not have at this time.

We in Farmers Union do not believe that any civilized government would be justified in permitting the last of its grain or food stocks to be sold out to foreign customers, no matter the price, just as an individual family would not sell out the last food in its pantry just because of the price which might be offered.

We regard it as important to have, as a part of a definitive, comprehensive national food policy, an export licensing system which would enable the Government to insure that food supplies needed by American consumers and industries would be assured and maintained, to assure that ample supplies of feedstuffs are available to U.S. producers of milk, meat, eggs and poultry, and to allocate remaining supplies in times of real shortages among our various export customers on the basis of their historical record of purchases, and to provide food needs for humanitarian purposes and natural disasters.

IMPROPER FEDERAL EXPORT CONTROL POLICIES

But neither the Export Administration Act of 1969, as amended, nor the various actions taken under it by the executive branch, within or outside the law, from 1973 to the present day, have been fair or acceptable methods of handling the problem.

Farmers Union is unalterably opposed to any form of export controls or restrictions that are not directly linked to effective measures which will protect farmers against the collapse of prices in times of surpluses. We would therefore advise against extending the Export Administration Act of 1969 without amendment.

In 1973 and in 1974 and again in 1975 the Government has intervened and is now interfering to prevent farmers from selling their crops freely.

Because this was done without any guidelines, without any link to a policy of food abundance, this has been the worst possible form of

export control. It has exposed farmers, American consumers, and our export customers alike to the capricious, irresponsible, and incompetent whim of politicians in the executive branch, acting unpredictably and arbitrarily under the pressures, the hysteria, and the political motives of the moment.

We have not been able, in fact, though we have made several pointed inquiries, to find out what the legal basis may have been for the several executive actions taken from July through October by the administration in limiting the export of grain.

We have not been reassured that the export monitoring features of the 5-year Russian grain agreement are indeed a proper legal exercise of authority by the White House. In effect, export controls have been institutionalized for the next 5 years at least in our relations with the U.S.S.R. and Eastern European customers for our grain.

The supply situation in 1975 did not justify the actions taken by the administration to limit exports. As we said earlier, we ought to operate on a policy of full production and abundance.

Along with that, we ought to have a standby export licensing system, but it ought to be geared to price and supply factors to protect farmers from being destroyed by the very abundance they assure to society.

Mr. Chairman, the Export Administration Act of 1969, under which the export control actions have been taken, expires on September 30, 1976. S. 3084 would extend it another 3 years.

Clearly, a better vehicle is needed, both for the sake of farmers and consumers. Under this statute, the Secretary of Agriculture must be consulted, but in the several instances that export controls have been imposed, Secretary of Agriculture Earl Butz has concurred in the action.

AMENDMENT TO EXPORT ADMINISTRATION

Accordingly, we recommend and urge that S. 3084 be amended by adding the following:

Amend Sec. 4(e) of the Export Administration Act of 1969, as amended and extended by the Equal Export Opportunity Act, by adding a new sentence at the end thereof as follows: "The authority conferred by this section shall not be exercised with respect to any agricultural commodity unless the average price received by farmers for such commodity for the preceding calendar quarter is in excess of 110 per centum of parity price for such commodity."

That concludes my statement. I submit to your questions.

Chairman MORGAN. What does your amendment really do, Mr. Johnson, the one you are recommending? Will you briefly explain your amendment?

Mr. JOHNSON. Yes, I will, Mr. Chairman. If you will look with me again at the bottom of page 3, we see no alternative to protection of American farmers against embargoes that we have seen placed upon us in recent weeks and months than for this committee to act to place some kind of a restriction on the executive branch. Our amendment would simply be no embargoes placed upon the sale of agricultural commodities overseas unless the average price received by farmers for a commodity would be in excess of 110 percent of the parity price for the commodity over the preceding calendar quarter.

Mr. Chairman, parity prices have been running in the neighborhood of about 80 to 85 percent of a parity for the major export commodities. In some instances, in some cases, somewhat lower.

This amendment would not have the effect of attempting to set a domestic price on a commodity but merely set forth a criteria to prohibit any embargoes being placed on export commodities unless farmers were receiving what we consider to be a fair price for that commodity.

Chairman MORGAN. Mr. Gilman.

Mr. GILMAN. No questions, Mr. Chairman.

Chairman MORGAN. Mr. Lagomarsino.

Mr. LAGOMARSINO. No questions.

Chairman MORGAN. Thank you, Mr. Johnson.

The committee stands adjourned until 10 tomorrow morning.

[Whereupon, at 1:50 p.m. the committee adjourned, to reconvene at 10 a.m., June 11, 1976.]

EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

FRIDAY, JUNE 11, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C.

The committee met at 10:15 a.m., in room 2172, Rayburn House Office Building, Hon. Thomas E. Morgan (chairman of the committee) presiding.

Chairman MORGAN. The committee will please come to order.

We will start because we could have a quorum call and the Secretary has to leave as close to noon as possible.

The Committee on International Relations is honored to have before it today Hon. Elliot Richardson, the Secretary of the Department of Commerce.

In 3 previous days of hearings—will our guests please take their seats? We had a repetition of this yesterday and I was talking to the same people. If you are going to stay here, you are going to have to follow the rules of the committee.

The 3 previous days of hearings, the committee has heard from the Departments of State, Defense, Treasury, and various private groups. The Department of Commerce is a Department with the principal responsibility for administration of the Export Administration Act. In the previous legislation the committee has considered the administration of that act on boycotts and high technology exports.

We are pleased to have you back before the committee, remembering when you served in several other Cabinet posts and were always welcome before this committee.

Mr. Secretary, you have a long prepared statement and you may proceed.

STATEMENT OF HON. ELLIOT L. RICHARDSON, SECRETARY OF COMMERCE

Secretary RICHARDSON. Thank you, Mr. Chairman.

It is a great pleasure to be here. I have enjoyed earlier opportunities to testify before this committee. This is my first appearance before this committee since it was renamed the Committee on International Relations. I am glad to have the opportunity to be the first Secretary of Commerce to appear before you for the purpose of recommending that the Export Administration Act of 1969 be further extended and amended.

May I ask, Mr. Chairman, that the record show that I am accompanied here by the General Counsel of the Department of Commerce,

Mr. J. T. Smith on my left and by Mr. Arthur T. Downey, Deputy Assistant Secretary of Commerce for East-West Trade.

The Export Administration Act is at once very broad—in the sweep of matters with which it deals and also quite detailed. Encompassed within it are two basic subjects: controls on exports for reasons of national security, foreign policy, and short supply; and the Government's response to the Arab boycott of Israel.

EXPORT CONTROLS AND TECHNOLOGY

I should like to turn first to the question of export controls and, particularly, their relationship to the transfer to technology to the Communist nations.

The act as it is now formulated is designed to deal with the central dilemma of promoting the export of American products and technology, while at the same time restricting this flow to the extent needed to protect our national security.

In providing its basic formulation of policy, the act has served its purposes well. No fundamental change is required. It is a reflection of the wisdom of the Congress that the act is so worded as to enable the administrators needed latitude and flexibility to work within its framework.

The only change in the act itself which the administration recommends with respect to these controls is an increase in the fines that can be imposed for violations. Our intention here is to provide a more forceful deterrent to potential violators of the act. I am particularly interested in this since my responsibility for the administration of this act causes me not only to be interested in the promotion of American exports, but also in this limited way to be very interested in safeguarding our Nation's security.

HIGH TECHNOLOGY EXPORTS TO COMMUNIST COUNTRIES

A chief focus in the exercise of security controls is on the flow of high technology and products to the Communist countries. The quantitative size of that flow is not large. For example in 1974, the flow of American technology, as expressed in sales of manufactured goods to the U.S.S.R., amounted to 0.3 percent of the Soviet Union's GNP. Thus, our common concern and interest is determined less by the size of our technology trade, and more by its content and the nature of our relationship with the Communist countries.

The history of this element of the Export Administration Act is in many respects a history of America's relations with the nations of Eastern and Central Europe, the Soviet Union, the People's Republic of China, and other Communist nations. It reflects the evolution of thought by the Congress and Executive concerning the importance to the Nation's economic health and well-being of a vigorous, many-faceted export program.

The act has its roots in the 1949 export control law and the conflict embodied in the cold war period. That period in our international relations reached a turning point in the late 1960's marked by a series of events reflecting a thaw in the cold war, including passage by the Congress of the Export Administration Act in 1969. It made it possi-

ble to consider not only the need to continue to be vigilant, but also to decide to compete vigorously in the promotion and sale of nonstrategic goods and services produced in this country by American workers.

We have positive reasons for wishing to encourage the development of a more mature commercial relationship with the Communist countries. But we still must walk a tightrope. We seek the larger goals which can be achieved through maturation of this relationship, and will do so without taking unnecessary risks or improving significantly the military potential of these countries.

I would like now to address the three specific areas in which the committee has expressed particular interest: delays in the processing of the license applications, the Defense Science Board's report, and the GAO report on East-West trade.

DELAYS IN ISSUING LICENSES

I would like to deal first with delays in reaching decisions on export license applications. There is no doubt that there have been inordinate delays in processing some export license applications. I am not satisfied that we have yet done all we can to speed this process in a responsible way. But let me put the issue into what I believe is the proper context:

Approximately 90 percent by value of all exports to Communist countries are carried out without any requirement for validated licenses.

In 1975, the Office of Export Administration received over 50,000 applications for validated licenses of which an estimated 90–95 percent were for the export of high technology products to all destinations. Approximately 10 percent of the applications were for exports to the Communist countries.

A study of all applications received during the first 2 weeks of March, indicates that 94 percent were processed within 30 days. The vast majority of applications that required more than 30 days to process were for high technology products destined for Communist countries.

Thus, the problem of delayed cases is focused on a relatively small number of applications representing high technology commodities proposed for export to Communist destinations.

Delays may result because, in the initial technical analysis of an application, additional details or facts are needed that are difficult to establish. This difficulty is compounded by the increasing technical sophistication of modern products. Also, in many instances, the Department is obligated to seek the advice of its advisory agencies and to consult with our COCOM partners. Technical and policy issues may arise with them.

EFFORTS TO IMPROVE LICENSE PROCESSING TIME

In a continuing effort to improve processing time, we have taken steps, many of which are detailed in my written statement. But, I might highlight some of them:

I have authorized additional personnel—technical and otherwise—to handle the analytical, documentary, and other tasks associated with

the review of applications in the Office of Export Administration. Some recruitment has already taken place, and an active search is underway to find additional personnel with the unique technical knowledge or experience needed for these tasks.

Working with the chairman of the President's Export Council, I have arranged for the establishment of a Subcommittee on Export Administration which will focus on policy issues. Mr. John V. James of Dresser Industries is chairman and we have invited 19 representatives of computer, electronic, machine tool, and other interested industries to become members.

We have sought agreement with the Department of Defense to reduce the number of export license applications that otherwise would have had to be referred to that agency for review, pursuant to section 4(h) of the act.

In February, we began a concentrated effort, involving substantial overtime, to reduce the number of export license applications delayed over 30 days. On January 22, 1976, there were 306 applications in this category in the licensing divisions. As of June 2, the 30-day backlog in these divisions had been reduced to 75 applications.

I have taken a personal interest in the problems relating to processing delays, including those associated with interagency consultation and to this end I am working directly with the Deputy Secretaries of Defense and State. I intend to continue giving a high priority to the task of eliminating processing delays—which are costly to the export trade—without endangering in any way our important national security responsibilities.

DOD REPORT ON TECHNOLOGY EXPORTS

You have asked me to comment on the "Report of the Defense Science Board Task Force or Export Control of U.S. Technology—A DOD Perspective."

I concur in many of the findings and recommendations in the report respecting export controls: the need to establish simplified licensing criteria, to strengthen COCOM controls, and to improve the effectiveness of controls by widening industry consultation and cooperation and by establishing better communications with the private sector, other U.S. Government agencies and COCOM governments. These are elements of our current export control program. We are attentive to the need of applying them more effectively. We already utilize these insights contained in the report in our continuing discussions of export license applications with the Department of Defense.

Some recommendations, such as that calling for a distinction to be drawn between revolutionary and evolutionary technology when control decisions are made, are provocative of thought. Although these concepts are, in effect, recognized and applied in a general way in current export control practice, their application in the specificity and breadth for which the task force seems to call requires further study.

In short, the report is quite interesting, but some further clarity is required before the full impact of its application can be properly evaluated. The Department of Defense is reviewing the report and we are engaged also in the interagency consideration of it. To the extent that the recommendations of the report are adopted, in whole or in

part, no change would be required in the Export Administration Act, since the necessary discretionary authority is already embodied in the act.

GAO STUDY ON EAST-WEST TRADE

You also asked me to comment on the issues raised by the GAO study, "The Government's Role in East-West Trade—Problems and Issues." I shall limit my remarks however, to a few of the principal recommendations in the study that deal with the Department's administration of the Export Administration Act. The full Department commentary is an attachment to my written statement.

Certain recommendations have already been implemented. For example, as I noted, we are providing additional personnel resources for the operation of the Office of Export Administration, and we have improved the system for screening license applications by adding additional computerized data bases. The GAO study also recommends disbanding the Technical Data Division and we have done so. Indeed, we took all of these steps prior to the release of the GAO study.

We have difficulty in accepting the recommendations of the GAO respecting the Department's Interagency Operating Committee. Providing the Operating Committee with a technical staff is neither necessary or feasible, and would result in duplication of the technical staffs already assigned to the Office of Export Administration and member agencies.

The suggestions relating to abiding by a predetermined time frame and the majority rule concept are based on misconceptions of the role of the Operating Committee. The group is not a decisionmaking body. It is a vehicle for securing information and advice on export control matters from the Department's advisory agencies.

To conform the Operating Committee's work program to a predetermined time frame might result in unwise control decisions. A much preferred goal is to provide the committee with a more complete technical analysis at the outset of the committee's deliberations with the consequent reduction in the number of technical disagreements or questions that frequently arise and cause delays.

ANTIBOYCOTT PROPOSALS

Mr. Chairman, pursuant to your request I would now like to discuss legislation currently pending before Congress to deal with the Arab boycott of Israel. Let me state at the outset that the administration opposes additional legislation at this time (other than H.R. 11488, discussed below) as being both untimely and unnecessary and potentially counterproductive.

The administration's opposition can best be understood against the backdrop of forceful action already taken by the administration (1) to assure that the boycott is free of discrimination against U.S. citizens; (2) to deal with secondary boycott practices which interfere with economic relations among domestic firms; and (3) to seek diplomatic modification of the more objectionable manifestations of the boycott.

Moreover, we believe that the passage of legislation at this time might jeopardize our ability to continue to work effectively with Arab nations to achieve a just and permanent Mideast peace—which is, after all, the only realistic means to end the Arab boycott of Israel.

The administration strongly opposes, and has prohibited compliance with, boycott practices involving any discrimination against U.S. citizens. In point of fact, only a very few of the boycott requests that have been reported to the Commerce Department involve religious or ethnic discrimination against American citizens or firms.

During the period October 1, 1975, through March 31, 1976, the Department received approximately 14,200 reports, dealing with approximately 29,700 transactions. Of these 14,200 reports, six revealed boycott-related requests which would clearly discriminate against American citizens. Several hundred additional reports revealed requests that goods not be marked with the "Star of David." While the Department of Commerce has made a decision to treat such requests as discriminatory, diplomatic efforts to eliminate these requests have led to their virtual elimination.

In addition, diplomatic efforts have accomplished the elimination of other discriminatory requests. The evidence thus far supports the view that the boycott is symptomatic of the Mideast conflict and that, in its current manifestations, it is not based on religious or ethnic criteria.

ADMINISTRATION ANTIBOYCOTT STEPS

Other administration witnesses have detailed the serious and strong steps taken by the President and the administration to show that we tolerate no discrimination. These steps include proposed legislation (H.R. 11488) which would prohibit economic coercion to discriminate against U.S. citizens on the basis of race, color, religion, national origin, or sex. I would like to review the specific actions taken by the Commerce Department with respect to our enforcement practices generally.

On December 1, 1975, the Department's regulations were amended to prohibit compliance with any request in connection with a foreign boycott which would result in discrimination against U.S. citizens or firms on the basis of race, color, religion, sex, or national origin.

Also, on December 1, an amendment to the regulations extended the reporting requirements to any person or firm other than the exporter handling any phase of the export transaction—such as banks, insurers, shipping companies, and freight forwarders.

The Department instituted a massive publicity campaign to encourage U.S. exporters not to comply with boycott-related requests for information and to remind them of the reporting requirements under our Export Administration regulations.

Coupled with this publicity campaign, all violations of the reporting requirements which have come to the Department's attention have been investigated, and as a result thereof, about 200 firms have been warned and civil penalties have been imposed against several others.

The reporting requirements were amended to require reporting firms to indicate whether or not they had complied, or intended to comply, with the reported boycott-related requests for information. Since 1965, the answer to that question in the Department's reporting form had remained optional, and had not been answered by most reporting firms.

The Department has ceased dissemination of information on trade opportunities obtained from documents known to contain a restrictive

trade practice or boycott against a country friendly to the United States.

On April 29 of this year, I announced that, henceforth, all letters setting forth charges against firms for alleged violations of the Export Administration regulations related to the boycott would be made public.

THE BOYCOTT AND MIDDLE EAST CONFLICT

Other administration witnesses have spoken of the foreign policy implications of the boycott and I will not dwell on them at any length. The boycott must be recognized as a manifestation of continuing conflict between Israel and the Arab nations.

We are firmly convinced that the boycott cannot be eliminated except in the broader context of a settlement of the dispute which gave rise to it and that good relations with all the countries in the area are critical to our ability to influence a peaceful settlement.

Avoidance of renewed conflict in the Middle East must be a principal moral as well as political concern of our Nation's diplomacy. The wisdom of any new boycott legislation, therefore, must be evaluated on the basis of its likely effect on our ability to help maintain peace.

Our abiilty to maintain peace can depend upon our economic as well as diplomatic role in the Mideast since economic and diplomatic goals can be closely interwoven. The good will and confidence which we have established with the Arab nations is based in large measure on our evolving commercial relationships and substantial economic connections.

Thus, to a very large extent, our ability to assist negotiations to reduce tensions in the Middle East depends on our maintaining close, cooperative economic and political relations with all the countries involved.

It is our view that some of the more extreme legislative initiatives, by making it difficult or impossible for U.S. concerns to do business in the Middle East, would jeopardize vital foreign policy and national security concerns.

RICHARDSON COMMENTS ON ANTIBOYCOTT BILLS

I am especially concerned with bills which would prohibit firms from refusing to do business with Israel, in connection with boycott activities. Thus, for example, H.R. 4967—introduced by Mr. Bingham—would prohibit the taking of any actions by domestic concerns which would have the effect of supporting the Arab boycott of Israel.

Under this proposal, U.S. manufacturers would be prohibited from certifying that they do not have and do not intend to establish any branches or subsidiaries in Israel. This prohibition would apply whether or not the U.S. company had any realistic prospect of or genuine interest in such trade relations with Israel.

Certain amendments by Senator Ribicoff to the pending tax reform legislation (H.R. 10612) would deny the foreign tax credit and other tax benefits to American firms for income derived from countries which require compliance with the boycott. Depending on the effective tax rates involved, the cumulative tax costs of doing business in an

Arab country might be prohibitive. In any case, the overall effect of the bill could be to reduce the attractiveness of investments in Arab countries.

These and other bills, including H.R. 12383—introduced by Ms. Holtzman—appear to us to be counterproductive in terms of weakening the Arab boycott, and harmful to the national interest in terms of maintaining a viable relationship with all the countries of the Middle East.

S. 3804, THE STEVENSON BILL

In addition to the proposals discussed above, I would like to comment briefly on title II of S. 3084, the so-called Stevenson bill which is now pending before the full Senate. On the House side, Congressman Koch has introduced a bill, H.R. 11463, which is sometimes referred to as companion legislation to S. 3084. On April 9, Congressman Koch introduced a second bill, H.R. 13151, which differs from the earlier bill in certain important respects.

These bills contain a number of requirements, some of which are duplicative of existing legislation or regulations. The principal new requirements are that domestic concerns would be prohibited from refusing to do business with other domestic concerns "pursuant to an agreement with, requirement of, or a request from, or on behalf of, any foreign country" in connection with the enforcement of the boycott; and all boycott reports filed after enactment of the bill would be available for public inspection and copying.

S. 3084 is the most moderate boycott-related proposal currently pending before Congress. However, on close analysis, it appears that as currently drafted it might have an adverse impact on the ability of U.S. companies to do business in the Middle East and might therefore limit the development of mutual confidence between the U.S. and Arab nations. In turn, it may reduce our ability to carry out constructive diplomatic efforts aimed at achieving lasting peace in the Middle East.

The Koch bill—as introduced on April 9, 1975—differs significantly from S. 3084 in that it contains a section which would prohibit refusals to do business with "a country friendly to the United States or national thereof pursuant to an agreement with, requirement of, or request from, or on behalf of, any other foreign country" for the purpose of enforcing or implementing the boycott.

Because of this provision the bill is somewhat like the Bingham bill (H.R. 4967) in the likely economic impact it would have on overall U.S. interests in the Middle East. Both bills could seriously circumscribe business opportunities in Arab countries and are, therefore, strongly opposed by the administration. Let me turn now to the refusal-to-deal provisions which are common to both the Stevenson and Koch proposals.

The refusal-to-deal sections of the Stevenson and Koch bills must be analyzed in the context of current antitrust enforcement practice. The refusal of an American firm to deal with another American firm in order to comply with a boycott by a foreign country raises serious questions under the U.S. antitrust laws

THE BECHTEL CASE

In January of this year, the Justice Department filed a civil antitrust suit charging the Bechtel Corp. with entry into and implementation of a conspiracy to boycott U.S. subcontractors and suppliers within the United States which are on the Arab boycott list, in violation of section 1 of the Sherman Act.

It charges an American firm and its agents with refusing to deal, within the United States, with boycotted persons residing in the United States in connection with major construction projects. It also charges that firm with requiring those with whom it subcontracts to themselves boycott other persons in work performed for these projects.

We fully support the action of the Department of Justice. More generally, we believe that existing antitrust law is adequate to deal with such attempts to interfere with intercompany relationships in the United States, and that enforcement in this area is properly a function of the Department of Justice.

It has been suggested by some that the refusal to deal provisions are a codification, as it were, of existing antitrust principles as manifested in the Bechtel suit. In fact, they go beyond any application of antitrust to date and could create uncertainty among business firms as to their legal obligations.

IMPACT OF PROPOSED ANTIBOYCOTT PROPOSALS

These refusal to deal provisions would require the Department of Commerce to adopt regulations to prohibit domestic concerns and persons from "refusing to do business with any other domestic concern or person pursuant to an agreement with, requirement of, or a request from, or on behalf of, any foreign country" for the purpose of enforcing the boycott against Israel.

The principal impact of this amendment would be on our ability to maintain and increase our share of the expanding market for construction projects in the Middle East. It appears true that American firms involved in local projects in Arab countries may be prohibited under the Sherman Act from entering into agreements not to buy from, or use the services of, other U.S. companies. However, the Stevenson/Koch proposals would prohibit so-called "refusals to deal" founded upon unilateral decisions relating to sourcing requirements, shipping on nonboycotted vessels or use of nonboycotted insurance companies, without there being an agreement or understanding between the parties.

For example, if a U.S. firm doing business in an Arab country were to order one kind of truck rather than another, because it knows that the country will not permit the importation of the second truck, that might be viewed as a prohibited refusal to deal.

We are concerned that the provisions on refusal to deal will impose unusual and unaccustomed responsibilities on the Commerce Department. Also, a large increase in staff and budget would be required to establish an apparatus for responsible investigation and enforcement, resources which have been denied the Department for enforcement of

other aspects of the law directly related to national security. The promise implied by the legislation will create expectations of vigorous "antitrust" enforcement by a Department which is not especiall well suited to the task. Allegations of prohibited refusals to deal would be many. Actual proof of such refusals would be difficult.

COMPELLING PUBLIC DISCLOSURE OF BOYCOTT REQUEST REPORTS

Finally, questions have been raised regarding the desirability of compelling public disclosure of boycott request reports. While it is difficult to assess the impact of such disclosure, it is possible that disclosure would have an adverse impact on the development of business relationships in the Middle East. For instance, one can speculate that disclosure would generate adverse domestic reaction that could most substantially affect firms manufacturing consumer goods and these pressures, in turn, would deter Middle East business.

The administration shares congressional and public concern about the impact of the Arab boycott on the U.S. firms and citizens. Action to lessen this impact must, however, be designed to achieve realistic objectives and to avoid counterproductive reaction.

It is the administration's judgment that even the Stevenson approach, including disclosure of boycott reports and an overbroad prohibition on refusals to deal, could be counterproductive. As Assistant Secretary of State Greenwald pointed out in his testimony before this committee, quiet and firm diplomatic efforts are yielding some success in modifying boycott procedures. These efforts offer the best chance for lessening the impact of the boycott through its constructive modification if not its elimination.

In summary, Mr. Chairman, the administration believes that new legislation is unnecessary, untimely, and potentially counterproductive. The more stringent of the pending proposals would do great damage to our economic and foreign policy interests in the Middle East—and it is imperative for foreign policy and national security reasons that we continue to pursue these interests, including the establishment there of a lasting peace settlement.

That concludes my prepared statement, Mr. Chairman.

I have a somewhat longer complementary statement which I would like to have filed for the record.

Chairman MORGAN. Thank you, Mr. Secretary.

Your complete statement plus your inserts will be made a permanent part of the record.

[The prepared statement of Secretary of Commerce Elliot L. Richardson and comments of Domestic and International Business Administration, Department of Commerce on Final GAO Report entitled "The Government's Role in East-West Trade—Problems and Issues" follow:]

PREPARED STATEMENT OF HON. ELLIOT L. RICHARDSON, SECRETARY OF COMMERCE

INTRODUCTION

It is a privilege to be the first Secretary of Commerce to appear before this Committee for the purpose of recommending that the Export Administration Act of 1969 be further extended and amended.

The Act is at once very broad -- in the sweep of matters with which it deals -- and also quite detailed. Encompassed within it are two basic subjects: controls on exports for reasons of national security, foreign policy, and short supply; and the Government's response to the Arab boycott of Israel.

I should like to turn first to the question of export controls and, particularly, their relationship to the transfer of technology to the Communist nations. The Act as it is now formulated is designed to deal with the central dilemma of promoting the export of American products and technology, while at the same time restricting this flow to the extent needed to protect our national security. In providing its basic formulation of policy,

the Act has served its purposes well. No fundamental change is required. It is a reflection of the wisdom of the Congress that the Act is so worded as to enable the administrators needed latitude and flexibility to work within its framework.

The only change in the Act itself which the Administration recommends with respect to these controls is an increase in the fines that can be imposed for violations. Our intention here is to provide a more forceful deterrent to potential violators of the Act. I am particularly interested in this, since my responsibility for the administration of this Act causes me not only to be interested in the promotion of American exports, but also in this limited way to be very interested in safeguarding our nation's security.

A chief focus in the exercise of security controls is on the flow of high technology and products to the Communist countries. The quantitative size of that flow is not great. For example in 1974, the flow of American technology, as expressed in sales of manufactured goods to the USSR, amounted to three-tenths of one percent of the Soviet Union's GNP. Thus, our common concern and interest is determined less by the size of our

technology trade, and more by its content and the nature of our relationship with the Communist countries.

The history of this element of the Export Administration Act is in many respects a history of America's relations with the nations of Eastern and Central Europe, the Soviet Union, the People's Republic of China, and other Communist nations. It reflects the evolution of thought by the Congress and Executive concerning the importance to the nation's economic health and well-being of a vigorous, many-faceted export program.

The Act has its roots in the 1949 export control law and the conflict embodied in the Cold War period. That period in our international relations reached a turning point in the late 1960's marked by a series of events reflecting a thaw in the Cold War including passage by the Congress of the Export Administration Act in 1969. It made it possible to consider not only the the need to continue to be vigilant, but also to decide to compete vigorously in the promotion and sale of nonstrategic goods and services produced in this country by American workers.

We have positive reasons for wishing to encourage the development of a more mature commercial relationship with the Communist countries. But we still must walk

a tightrope. We seek the larger goals which can be achieved through maturation of this relationship, and we will do so without taking unnecessary risks or improving significantly the military potential of these countries.

I would like now to address briefly two specific areas in which the Committee has expressed particular interest: the Defense Science Board Task Force Report; and the GAO Report on East-West trade. With regard to delays in the processing of license applications, a subject that deeply interests me, I am appending a statement that puts the problem into context and describes the steps that we are taking to improve our performance.

DEFENSE SCIENCE BOARD TASK FORCE REPORT

I would like to deal first with the "Report of the Defense Science Board Task Force on Export Control of U.S. Technology - A DOD perspective."

I concur in many of the findings and recommendations in the report respecting export controls: the need to

establish simplified licensing criteria, to strengthen CoCom controls, and to improve the effectiveness of controls by widening industry consultation and cooperation and by establishing better communications with the private sector, other U.S. government agencies and CoCom governments. These are elements of our current export control program. We are attentive to the need of applying them more effectively. We already utilize these insights contained in the report in our continuing discussions of export license applications with the Department of Defense.

Some recommendations, such as that calling for a distinction to be drawn between revolutionary and evolutionary technology when control decisions are made, are provocative of thought. Although these concepts are, in effect, recognized and applied in a general way in current export control practice, their application in the specificity and breadth for which the Task Force seems to call requires further study.

In short, the report is quite interesting, but some further clarity is required before the full impact of its application can be properly evaluated. The

Department of Defense is reviewing the report and we are engaged also in the interagency consideration of it. In any case, to the extent that the recommendations of the report are adopted in whole or in part, no changes in the Export Administration Act are necessary, since the necessary discretionary authority is already embodied in the Act.

THE GAO STUDY

You also asked me to comment on the issues raised by the GAO Study, "The Government's Role in East-West Trade Problems and Issues". I shall limit my remarks, however, to a few of the principal recommendations in the study that deal with the Department's administration of the Export Administration Act and include the full Department commentary as an attachment to my statement.

Certain of the recommendations have already been acted upon. These include the matter of providing additional personnel resources for the operation of the Office of Export Administration, an examination of licensing procedures with a view of updating them, and improvement in our system for screening license applications

by adding to our computerized data bases. These points are detailed in the attached statement dealing with licensing delays.

The GAO study also recommended disbanding the Technical Data Division and requesting the East-West Foreign Trade Board to determine the most suitable agency for monitoring the licensing technology transfers. As I have mentioned, the Technical Data Division has been disbanded, and its licensing functions transferred to the commodity licensing divisions in the Office of Export Administration, where the technical expertise exists.

Many of the issues involved in licensing the export of a commodity also arise in connection with licensing of the technology to manufacture the commodity. The already accomplished transfer of the technical data review function to the licensing divisions will facilitate and enhance the technical assessments accorded each case by bringing together in one organizational unit the technical competence and expertise necessary to administer the complex regulations governing exports of technical data. To transfer responsibility to another agency would involve the establishment of

a new bureaucracy, faced with the same questions and problems, but lacking the experience to deal with them.

There is a recommendation that a technical staff be assigned to the Department's Operating Committee, a senior staff-level interagency group that meets regularly to consider the more difficult export license applications; to require its work program to conform to a predetermined time frame, and to employ majority, rather than unanimity rule, in arriving at its decision on these applications.

In my opinion, providing the Operating Committee with a technical staff is neither necessary nor feasible. It would require a sizeable staff to deal with the very wide range of problems with which the Operating Committee deals and would result in duplication of the technical staffs already assigned to the Office of Export Administration and member agencies. These technicians now are available to the Operating Committee and do participate in their technical discussions.

The suggestions that the Operating Committee be required to abide by a predetermined time frame and to employ the majority rule concept in arriving at its

decisions are based on misconceptions of the role of the Operating Committee.

First, the group is not a decision-making body. It is a vehicle for securing information and advice on export control matters from the Department's advisory agencies. The Committee's agency members have differing concerns and bring differing views of issues to Committee deliberations. The majority advice might well fail to reflect adequately valid national security or foreign policy concerns. To oblige the Department to accept the advice of the majority in these circumstances could lead to unwise control decisions. Moreover, the Export Administration Act gives the Secretary of Defense authority to review license applications involving exports to the Communist countries and to recommend to the President disapproval of any application for the export of goods or technology that he believes will significantly increase the military capability of such countries. Only the President can overrule him. The statute thus effectively precludes decisions based on majority advice if the objection of the Department of Defense is in the minority.

Second, with regard to conforming the Operating

Committee's work program to a predetermined time frame, this might also result in unwise control decisions. Our current efforts to speed up application processing in general will shorten the review cycle in that body. A much preferred goal is to provide the Committee with a more complete technical analysis at the outset of the Committee's deliberations with the consequent reduction in the number of technical disagreements or questions that frequently arise and cause delays.

Lastly, the GAO study recommended a study of the implications of abandoning postshipment safeguards in considering decisions to license exports. This is similar to one of the recommendations of the Defense Science Board Task Force Report.

We recognize that many exporters consider imposition of special conditions to be burdensome, and that the safeguards may be resented by the foreign customer. These safeguards, which in the case of exports to Communist countries are designed to militate against the use for strategic purposes of equipment licensed for peaceful use, do permit the approval of many of the "borderline" computers and other high technology

items that otherwise would havehad to be denied. Our experience has shown that exporters would prefer to have an approval, with safeguards, than have the transaction denied outright. The same would be true in the case of exports to Free World countries of products that might be reexported or diverted. If we were to abandon reexport controls and safeguards and rely strictly on the initial licensing process, we would have to place much greater and unnecessary restrictions on U.S. exports.

ARAB BOYCOTT OF ISRAEL

Mr. Chairman, pursuant to your request I would now like to discuss legislation currently pending before Congress to deal with the Arab boycott of Israel. Let me state at the outset that the Administration opposes additional legislation at this time (other than H.R. 11488, discussed below) as being both untimely and unnecessary and potentially counterproductive. The Administration's opposition can best be understood against the backdrop of forceful action already taken by the Administration (i) to assure that the boycott is free of discrimination against U.S. citizens; (ii) to deal with secondary boycott practices which interfere with economic relations among domestic firms; and (iii) to see diplomatic modification of the more objectionable manifestations of the boycott. Moreover, we believe that the passage of legislation at this time might jeopardize our ability to continue to work effectively with Arab nations to achieve a just and permanent Mid-East peace -- which is, after all, the only realistic means to end the Arab boycott of Israel.

The Administration strongly opposes, and has prohibited compliance with, boycott practices involving any discrimination against U.S. citizens. In point of fact, only a very few of the boycott requests that have been reported to the Commerce Department involve religious or ethnic discrimination against American citizens or firms.

During the period October 1, 1975 through March 31, 1976, the Department received approximately 14,200 boycott reports dealing with approximately 29,700 transactions. Of these 14,200 reports, six revealed boycott-related requests which would clearly discriminate against American citizens. Several hundred additional reports revealed requests that goods not be marked with the "Star of David." While the Department of Commerce has made a decision to treat such requests as discriminatory, diplomatic efforts to eliminate these requests have led to their virtual elimination. In addition, diplomatic efforts have accomplished the elimination of other discriminatory requests. The evidence thus far supports the view that the boycott is symptomatic of the Mid-East conflict and that, in its current manifestations, it is not based on religious or ethnic criteria.

Other Administration witnesses have detailed the serious and strong steps taken by the President and the Administration to show that we tolerate no discrimination. These steps include proposed legislation (H.R. 11788) which would prohibit economic coercion to discriminate against U.S. citizens on the basis of race,

color, religion, national origin or sex. I would like to review the specific actions taken by the Commerce Department with respect to our enforcement practices generally.

- On December 1, 1975, the Department's Regulations were amended to prohibit compliance with any request in connection with a foreign boycott which would result in discrimination against U.S. citizens or firms on the basis of race, color, religion, sex or national origin.

- Also, on December 1, an amendment to the Regulations extended the reporting requirements to any person or firm other than the exporter handling any phase of the export transaction (such as banks, insurers, shipping companies, and freight forwarders).

- The Department instituted a massive publicity campaign to encourage U.S. exporters not to comply with boycott-related requests for information and to remind them of the reporting requirements under our Export Administration Regulations.

- Coupled with this publicity campaign, all violations of the reporting requirements which have come to the Department's attention have been investigated, and as a result thereof, more than 200 firms have been warned and civil penalties have been imposed against several others.

- The reporting requirements were amended to require reporting firms to indicate whether or not they had complied, or intended to comply, with the reported boycott-related requests for information. Since 1965, the answer to that question in the Department's reporting form had remained optional, and had not been answered by most reporting firms.

- The Department has ceased dissemination of information on trade opportunities obtained from documents known to contain a restrictive trade practice or boycott against a country friendly to the United States.

- On April 29 of this year, I announced that, henceforth, all letters setting forth charges against firms for alleged violations of the Export Administration Regulations related to the boycott would be made public.

Other Administration witnesses have spoken of the foreign policy implications of the boycott and I will not dwell on them at any length. The boycott must be recognized as a manifestation of continuing conflict between Israel and the Arab nations. We are firmly convinced that the boycott cannot be eliminated except in the broader context of a settlement of the dispute which gave rise to it and that good relations with all the countries in the area are critical to our ability to influence a peaceful settlement. Avoidance of renewed conflict in the Middle East must be a principal moral as well as political concern of our nation's diplomacy. The wisdom of any new boycott legislation, therefore, must be evaluated on the basis of its likely effect on our ability to help maintain peace.

Our ability to maintain peace can depend upon our economic as well as diplomatic role in the Mid-East since economic and diplomatic goals can be closely interwoven. The goodwill and confidence which we have established with the Arab nations is based in large measure

on our evolving commercial relationships and substantial economic connections. Thus, to a very large extent, our ability to assist negotiations to reduce tensions in the Middle East depends on our maintaining close, cooperative economic and political relations with all the countries involved. It is our view that some of the more extreme legislative initiatives, by making it difficult or impossible for U.S. concerns to do business in the Middle East, would jeopardize vital foreign policy and national security concerns.

I am especially concerned with bills which would prohibit firms from refusing to do business with Israel, in connection with boycott activities. Thus, for example, H.R. 4967 (introduced by Mr. Bingham) would prohibit the taking of any actions by domestic concerns which would have the effect of supporting the Arab boycott of Israel. Under this proposal, U.S. manufacturers would be prohibited from certifying that they do not have and do not intend to establish any branches or subsidiaries in Israel. This prohibition would apply whether or not the U.S. company had any realistic prospect of or genuine interest in such trade relations with Israel.

Certain amendments by Senator Ribicoff to the pending tax reform legislation (H.R. 10612) would deny the foreign tax

credit and other tax benefits to American firms for income derived from countries which require compliance with the boycott. Depending on the effective tax rates involved, the cumulative tax costs of doing business in an Arab country might be prohibitive. In any case, the overall effect of the bill could be to reduce the attractiveness of investments in Arab countries.

These and other bills, including H.R. 12383 (introduced by Ms. Holtzman) appear to us to be counterproductive in terms of weakening the Arab boycott, and harmful to the national interest in terms of maintaining a viable relationship with all the countries of the Middle East.

* * *

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These bills contain a number of requirements, some of which are duplicative of existing legislation or regulations. The principal new requirements are that domestic concerns would be prohibited from refusing to do business

with other domestic concerns "pursuant to an agreement with, requirement of, or a request from, or on behalf of, any foreign country" in connection with the enforcement of the boycott; and all boycott reports filed after enactment of the bill would be available for public inspection and copying.

S. 3084 is the most moderate boycott related proposal currently pending before Congress. However, on close analysis, it appears that as currently drafted it might have an adverse impact on the ability of U.S. companies to do business in the Middle East and might therefore limit the development of mutual confidence between the U.S. and Arab nations. In turn, it may reduce our ability to carry out constructive diplomatic efforts aimed at achieving lasting peace in the Middle East.

The Koch Bill -- as introduced on April 9, 1976 -- differs significantly from S. 3084 in that it contains a section which would prohibit refusals to do business with "a country friendly to the United States or national thereof pursuant to an agreement with, requirement of, or request from, or on behalf of, any other foreign country" for the purpose of enforcing or implementing the boycott. Because of this provision the bill is somewhat like the Bingham bill (H.R. 4967) in the likely economic impact it would have on overall U.S. interests in the Middle East. Both bills could seriously circumscribe business opportunities in Arab countries and are, therefore, strongly opposed by the Administration. Let me turn now to the refusal to deal provisions which are common to both the Stevenson and Koch proposals.

The refusal to deal sections of the Stevenson and Koch bills must be analysed in the context of current antitrust

enforcement practice. The refusal of an American firm to deal with another American firm in order to comply with a boycott by a foreign country raises serious questions under the U.S. antitrust laws. In January of this year, the Justice Department filed a civil antitrust suit charging the Bechtel Corporation with entry into and implementation of a conspiracy to boycott U.S. subcontractors and suppliers within the United States which are on the Arab boycott list, in violation of section 1 of the Sherman Act. It charges an American firm and its agents with refusing to deal, within the United States, with boycotted persons residing in the United States in connection with major construction projects. It also charges that firm with requiring those with whom it subcontracts to themselves boycott other persons in work performed for these projects.

We fully support the action of the Department of Justice. More generally, we believe that existing antitrust law is adequate to deal with such attempts to interfere with intercompany relationships in the United States, and that enforcement in this area is properly a function of the Department of Justice.

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date and could create uncertainty among business firms as to their legal obligations.

These refusal to deal provisions would require the Department of Commerce to adopt regulations to prohibit domestic concerns and persons from "refusing to do business with any other domestic concern or person pursuant to an agreement with, requirement of, or a request from, or on behalf of, any foreign country" for the purpose of enforcing the boycott against Israel. The principal impact of this amendment would be on our ability to maintain and increase our share of the expanding market for construction projects in the Middle East. It appears true that American firms involved in local projects in Arab countries may be prohibited under the Sherman Act from entering into agreements not to buy from, or use the services of, other U.S. companies. However, the Stevenson/Koch proposals would prohibit so-called "refusals to deal" founded upon unilateral decisions relating to sourcing requirements, shipping on non-boycotted vessels or use of non-boycotted insurance companies, without there being an agreement or understanding between the parties. For example, if a U.S. firm doing business in an Arab country were to order one kind of truck rather than another, because it knows that the country will not permit the importation of the second truck, that might be viewed as a prohibited refusal to deal.

We are concerned that the provisions on refusal to deal will impose unusual and unaccustomed responsibilities on the Commerce Department. Also, a large increase in staff and budget would be required to establish an apparatus for responsible investigation and enforcement, resources which have been denied the Department for enforcement of other aspects of the law directly related to national security. The promise implied by the legislation will create expectations of vigorous "antitrust" enforcement by a Department which is not especially well suited to the task. Allegations of prohibited refusals to deal would be many. Actual proof of such refusals would be difficult.

Finally, questions have been raised regarding the desirability of compelling public disclosure of boycott request reports. While it is difficult to assess the impact of such disclosure, it is possible that disclosure would have an adverse impact on the development of business relationships in the Middle East. For instance, one can speculate that disclosure would generate adverse domestic reaction that could most substantially affect firms manufacturing consumer goods and these pressures, in turn, would deter Middle East business.

The Administration shares Congressional and public concerns about the impact of the Arab boycott on U.S. firms and citizens. Action to lessen this impact must, however, be designed to achieve realistic objectives and to avoid counterproductive reaction. It is the Administration's judgment that even the Stevenson approach, including disclosure of boycott reports and an overbroad prohibition on refusals to deal, could be counterproductive. As Assistant Secretary of State Greenwald pointed out in his testimony before this Committee, quiet and firm diplomatic efforts are yielding some success in modifying boycott procedures. These efforts offer the best chance for lessening the impact of the boycott through its constructive modification if not its elimination.

In summary, Mr. Chairman, the Administration believes that new legislation is unnecessary, untimely, and potentially counterproductive. The more stringent of the pending proposals would do great damage to our economic and foreign policy interests in the Middle East--and it is imperative for foreign policy and national security reasons that we continue to pursue these interests, including the establishment there of a lasting peace settlement.

DELAYS IN PROCESSING LICENSE APPLICATIONS

In recent testimony before your International Trade Subcommittee, and in testimony before the Senate Subcommittee on International Finance, industry spokesmen charged that exports to Communist countries are seriously hampered by such delays. There is no doubt that there have been inordinate delays in processing some export license applications. But let me put the issue into what I believe is the proper context. First, I would like to point out that approximately 90 percent by value of all exports to Communist countries are carried out without even any requirement for validated licenses. Commodities that are under specific license control include:

- Products judged to be strategic by the 15 countries participating in the international (CoCom) strategic control system, and a very small number of additional commodities considered by the Department and its advisory agencies to be capable of contributing significantly to the design,

manufacture, and utilization of military hardware.

- Petroleum and related products that are under control for short supply reasons.

- Certain commodities related to nuclear weapons and explosive devices, and crime control and detection apparatus, that are controlled for foreign policy reasons.

Technical data related to the design, production or utilization of commodities are also under licensing control by Commerce to the extent that the data are not published or otherwise generally available to the public without restriction and are not basically scientific or educational in nature.

In 1975, the Office of Export Administration received 52,107 applications for validated licenses of which an estimated 90-95 percent were for the export of high technology products to all destinations. Approximately 5,000 of these applications were for exports to the Communist countries and as I noted earlier,

this represents only about 10 percent by value of our exports to the Communist countries. A study of all applications received during the first two weeks of March 1976, indicates that 81 percent were processed within 10 days; 94 percent within 30 days, and 96 percent within 60 days. The vast majority of applications that required more than 30 days, in fact more than 20 days, to process were for high technology products destined for Communist countries. An earlier study, conducted in October and November of last year, indicated that 35 percent of Communist country applications were processed in 20 days, 54 percent in 60 days, and 77 percent in 90 days. Thus, the problem of delayed cases is focused on a relatively small number of applications, in contrast to total intake, representing high technology commodities proposed for export to Communist destinations. Each represents a potential exception to the CoCom embargo of strategic products to these destinations and, as such, a potential problem that can be very time-consuming to resolve.

When the Export Administration Act of 1969 was extended in 1974, it was also amended to specify 90 days as the desired maximum processing period for goods subject to national security export controls. This is the objective of the Department. Delays may result because, in the initial technical analysis of an application, additional details or facts are needed that are difficult to establish. Then the file is reviewed in light of the prevailing policy. Also, in many instances, the Department is obligated to seek the advice of its advisory agencies, and policy issues may arise. Action, therefore, is delayed until these issues are resolved. There is often also the obligation to seek the views of our CoCom partners after we have determined that the application should be approved and satisfy concerns they express or answer questions they raise.

Nonetheless, the Department has realized that improvements in processing time must be effected. The steps that have been, or are being

taken, are described briefly below. Some have not been in effect long enough for their full benefits to be felt.

1. The Office of Export Administration has been authorized to hire additional personnel -- technical and otherwise -- to handle the analytical, documentary, and other tasks associated with the review of applications. Some recruitment has already taken place, and an active search is underway to find additional personnel with the unique technical knowledge or experience needed for these tasks. The Department's Fiscal Year 1977 budget request included $5.5 million for the Office of Export Administration. This represented an increase of $618,000 over the current budget to permit the Office to continue its recruitment efforts. The money was to be reprogrammed from within Commerce

by closing two developed market trade centers so that there would have been no net increase to the Department's budget request. The House Appropriations Committee not only did not approve the increase of $618,000 and 24 positions, but took action which would result in a base program reduction of $639,000 and 29 positions. Thus, the amount recommended by the Committee is $1,257,000 and 53 positions below that requested for 1977. The Department, in its appearance before the State, Justice, the Judiciary and Related Agencies Subcommittee of the Senate Committee on Appropriations, has made a special appeal for full restoration of the entire amount of the cut, and the Department is giving this request the highest priority.

2. Consultation with industry on a formal basis is being expanded to include advice, not only on technical matters, but also on policy objectives. I have arranged for the President's Export Council to establish a Subcommittee on Export Administration which will focus on policy issues. Mr. John V. James of Dresser Industries is Chairman and I have invited 19 other representatives of computer, electronics, machine tool and other affected industries to become members. The Computer Systems Technical Advisory Committee, at a technical level, has an active subcommittee on licensing procedures that, among other things, is studying means to facilitate the presentation to the Department of technical details concerning proposed exports of computer systems to Communist destinations.

3. A task force of Departmental management specialists has completed a detailed examination of the administrative structure of the Office of Export Administration. As a result, a number of organizational and procedural

changes have been made to enhance the efficiency of the office. For example, the Scientific and Electronic Equipment Division, which had grown to an unwieldy size, was split into two divisions, one for computers and the other for electronics. In addition, the Technical Data Division was disbanded, and its licensing activities integrated into the commodity licensing divisions where the technical expertise exists to process applications to export technical data.

4. An informal interagency working group, at the Deputy Assistant Secretary level, has been established to deal with policy issues that cannot be resolved at the senior staff level. This permits the more rapid resolution of interagency differences.

5. Agreement has been reached with the Department of Defense to reduce the number of export license applications that otherwise would have had to be referred to that agency for review, pursuant to Section 4(h) of the Export Administration Act of 1969, as amended.

Of particular importance is a recent arrangement that eliminates referral to the Department of Defense of applications to export certain types of computers. This action has been noted favorably by the business community. Consultation is continuing with the objective of reducing still further the types and categories of referrals.

In February, the Office of Export Administration began a concentrated effort, involving substantial overtime, to reduce the number of export license applications delayed over 30 days. On January 22, 1976, there were 306 applications in this category still either being reviewed or awaiting review in the licensing divisions. As of June 2 the 30-day backlog in these divisions had been reduced to 75 applications. In January, in the Office as a whole, there were 789 applications in the 30-day or older category. As of June 2, this backlog has been reduced to 516 applications.

7. Arrangements have been made with the National Bureau of Standards to utilize the services of its Institute for Computer Sciences in the review and analysis of computer export transactions that present special control policy problems and in the review of export controls over computers in general.

8. A computerized retrieval program has been installed to provide a readily accessible source of essential information concerning previously approved or denied applications to export computers and peripheral equipment to Communist destinations. This program is not yet in full operation, but it holds promise of making a significant contribution in reducing processing time.

9. A computerized program is in operation that has the capability of showing the current processing status of each pending application. This permits the Office of Export Administration to identify all applications that are not being processed in a timely manner. A Special Assistant to

> the Director, Office of Export Administration, is assigned the task of monitoring the delayed applications and of keeping the Director advised of potential problems so that preventive action can be taken.

I have taken a taken a personal interest in the problems relating to processing delays and have been working with the Deputy Secretary of Defense and Deputy Secretary of State in seeking means of expediting the interagency advice that the Office of Export Administration needs to process certain applications to export high technology products to the Communist destinations. I intend to continue giving a high priority to the task of eliminating processing delays -- which are costly to the export trade -- without endangering in any way our important national security responsibilities.

COMMENTS OF DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE, ON FINAL GAO REPORT ENTITLED "THE GOVERNMENT'S ROLE IN EAST-WEST TRADE—PROBLEMS AND ISSUES," FEBRUARY 4, 1976

1. Trade Promotion Program

RECOMMENDATIONS: The GAO makes two recommendations concerning the Commerce Department's East-West trade promotion program:

---Evaluate the appropriateness of executive level trade missions and improve the manner of selecting representatives.

---Evaluate the effectiveness of industry-organized Government-approved trade missions to Communist countries. (p. 14)

COMMENT: The Commerce Department's East-West trade promotion program was evaluated in preparation for and during an Economic-Commercial Officers Conference in February, 1975, in which Commerce and State officials and U.S. economic and commercial officers serving in Eastern Europe and the Soviet Union participated. This review identified certain problems and made several recommendations concerning the trade promotion program, including executive level and Industry-Organized Government-Approved (IOGA) trade missions. The promotion program of the Bureau of East-West Trade has been modified accordingly, and meets the recommendations of the GAO.

Executive Level Trade Missions. The Commerce Department has sponsored three executive level trade missions to Eastern Europe since 1969. U.S. economic relations with the three countries visited -- Czechoslovakia, the U.S.S.R., and Hungary -- had been minimal for many years and our exposure in these markets was very low. In these circumstances, the executive level trade missions were intended primarily to encourage the nascent trade relationship and spotlight the capabilities of U.S. industry. The high level of both the government and the corporate representatives on these missions stimulated the interest of high level officials of these countries in trading with the U.S. and brought to their attention the conditions which would be necessary for normalization of commercial relations.

Although these three missions were helpful in promoting U.S. commercial interests, executive level trade missions are an effective type of promotion only under certain conditions. The last executive mission was held in May 1974. If any such missions are considered in the future, their appropriateness will be carefully reviewed, and the methods of selecting participants and promoting the events will be improved to diminish the likelihood or appearance of favoritism. No such missions, however, are currently contemplated.

Industry-Organized Government-Approved (IOGA) Trade Missions. The Bureau of East-West Trade has reduced the number of IOGA trade missions and is scrutinizing closely the composition of proposed missions to determine if there is a potential market for participating firms and whether Government approval is warranted.

A distinction must be made between IOGA trade missions initiated by an industrial association, such as the National Tool Builders' Association, and those arranged by a state, municipal, or other commercial group. IOGA missions organized by industrial associations tend to resemble Commerce's specialized missions in structure and impact and can supplement effectively the Department's efforts. Missions organized by a State or municipal commercial entity, however, are more likely to be of the unstructured, loosely knit variety criticized by the GAO. The Department will, however, make every attempt to ensure that any industry-organized trade missions it approves will be suited to commercial purposes.

2. Market Information

RECOMMENDATIONS: The GAO recommends that the Commerce Department undertake the following measures to develop the commercial information needed by American firms in their trade with the nonmarket economy countries:

---Press the Communist countries for information on import needs and hard currency allocations for these imports.

---Devote efforts necessary to fulfill Commerce's realizable potential in developing market research data. (p. 14)

COMMENT: The Commerce Department agrees that such information is necessary and will continue and improve its efforts to obtain this information both directly from the countries concerned and through its own market research efforts.

Direct Request. The Department of Commerce has on various occasions sought to obtain information from these countries on their import needs and hard currency allocations and also has sought to institutionalize procedures for receiving such information on a regular basis. Some information of this kind has been received from some countries, and we will continue to press for it as appropriate.

It should be noted that our access to information about the import needs and hard currency allocations of these countries increases in relation to the improvement and normalization in our bilateral commercial relations. The countries about which we are able to obtain the most commercially valuable information -- Poland and Romania -- are precisely those with which we have nondiscriminatory trade relations. Until our commercial relations with the other nonmarket economy countries are placed on a nondiscriminatory basis, we are not in a very strong position to press them for such information.

Efforts nevertheless have been made to increase the flow of information from all socialist countries. Under the joint commercial commissions which our government has with the U.S.S.R., Poland, and Romania, we have requested pertinent market development information. In the case of the Soviet Union, we have received specifications on certain major projects, which were useful to American firms and trade associations in evaluating Soviet import prospects. Under the information exchange program, established under the aegis of the long-term economic cooperation agreement, the Soviets have provided us with various economic data from which we have been able to derive more specific knowledge about Soviet import plans and needs. Poland, at the last

session of our joint commercial commission, provided a list of projects in eight major industrial sectors which offered good prospects for American input. The Romanians similarly are responding through the economic commission to our requests for more trade-related information.

In agricultural trade, which constitutes a significant proportion of our exports to this area, U.S.D.A., has reached understandings with the U.S.S.R., Poland, and Romania, both as to import needs and exchange of information. The mechanisms of exchanges of information are the U.S.-U.S.S.R. Working Group on Agricultural Economic Research and Information under the U.S.-U.S.S.R. Joint Committee on Agricultural Cooperation and the American-Polish Trade Commission and the American-Romanian Economic Commission. In addition, our grain sales agreement with the Soviet Union provides for minimum imports on their part of 6 million tons of U.S. grain annually, while our informal understanding with Poland indicates that it intends to purchase between two and three million tons per year.

Information on import needs in the form of trade opportunities also is sought and frequently received by our trade centers and embassies in these countries. The Commerce Department, through the Bureau of East-West Trade and various departmental programs, conveys these trade opportunities to American firms. We will continue to solicit information concerning specific trade opportunities and encourage their submission with sufficient information and lead time to enable American firms to bid competitively.

Information concerning hard currency allocations is generally less available than information on import needs. It is possible, nevertheless, to receive in some instances direct information concerning hard currency allocations, especially concerning priority areas or projects. In many instances it is possible to ascertain whether hard currency is available for Western purchases or whether these can be undertaken only under counterpurchase or offset arrangements. The entrance of these countries into Western money markets, promises to increase the amount of financial information they release about themselves. The Commerce Department will seek vigorously, through direct contacts, joint commission meetings, and trade promotion activities to obtain from these countries the information necessary to support American commercial interests.

Market Research. Recognizing the importance of meaningf market research data, the Department's Bureau of East-West Trade recently reassessed and concentrated its market research efforts in a Market Assessment Staff, established in the Office of East-West Trade Development for the specific purpose of identifying U.S. trade potentials in each country. A nucleus of market research analysts, most of whom are multilingual and some of whom have years of experience in collecting and analyzing economic statistics on non-market economies, is already pursuing these objectives. This staff will provide the necessary analytical background for U.S. participation in trade fairs and technical sales seminars. In addition, to the extent that its resources permit, the staff will develop comprehensive market surveys for each country. These will serve as the bases for establishing our export potentials and priorities.

3. Information about Credits.

RECOMMENDATION: The Secretary of Commerce should advise U.S. importers that the Soviets have agreed to make credits available to them. (p. 25)

COMMENT: The Commerce Department publicized the availability of Soviet credits to U.S. importers following the 1972 credit agreement between the U.S. and the U.S.S.R., and continues to so advise U.S. companies. We have knowledge of some specific instances in which credits have been extended by the U.S.S.R. to American importers, and we are seeking fuller information about their amounts and terms.

In discussions with U.S. importers, Department officers inquire how transactions are financed and if the Soviets offer to arrange financing and on what terms. The Soviets have provided U.S. distributors of Soviet tractors standard financing in the form of "floor planning." The Soviets offered to finance their sales of hydrofoils, but the U.S. importer did not discuss the terms of the financing because he preferred to use his own sources of funds. We will continue to seek information on Soviet financing and also will continue to discuss this with appropriate Soviet officials.

4. OEA Personnel and Operation.

RECOMMENDATION: Provide additional personnel resources for and improve the operation of the Office of Export Administration. (p. 40)

COMMENT: This is being done. The Department has made 22 additional positions available to the Office of Export Administration (OEA). Most of these positions will be utilized to improve processing time within OEA. Thirteen positions, mostly technicians, are scheduled for the licensing divisions for the purpose of expediting initial review of the cases and documentation and analysis necessary for interagency review. Two positions are being assigned to the Policy Planning Division for the purpose of expediting the review of cases received from the licensing divisions, as well as referred formally or informally to other agencies for their advice and guidance. The remaining 7 positions are to support an expanding short supply program that would otherwise have to drain personnel resources from the security licensing areas of OEA.

We have been studying the structure and operation of OEA and have reorganized it to be more responsive to our objectives of reducing the time span required to process cases without reducing the quality of the licensing judgments. For example, the Technical Data Division has been abolished and its licensing responsibilities transferred to the commodity licensing divisions. Since technical data is so directly related to the commodity analysis necessary to assess the strategic nature, concerns, and disposition of the technology, the technicians in the various licensing divisions are more technically competent to handle these cases. In addition, because of the constant heavy workload in the Scientific and Electronic Equipment Division, we have abolished this division and created two new ones - the Computer Division and the Electronic Equipment Division.

A review of data and statistical requirements is underway, so that we can better assess data processing needs of the Office for reporting and management purposes.

5. Responsibility for Licensing Technology Exports.

RECOMMENDATION: Remove responsibility for monitoring and licensing technology transfers from the Office by disbanding the Technical Data Division and requesting the East-West Foreign Trade Board to determine the most suitable agency for handling this function.' (p. 40)

COMMENT: As noted above, we have disbanded our Technical Data Division, but we cannot support the recommendation that the mohitoring and licensing of technology be transferred to another agency. Many of the issues involved in licensing the export of a commodity also arise in connection with licensing of the technology to manufacture the commodity. In fact, prospective technology transfers frequently go hand in hand with prospective commodity exports and must be considered together. It requires technical examination and competence to assess technology proposed for export in terms of its strategic significance; to judge the potential of apparently non-strategic technology for contributing to the production of a related strategic product; and to evaluate the extent to which transfer of the technology would frustrate or negate the control over a strategic product. These factors, in addition to the normal military, political, economic factors, are basic to the review of any technology application. The transfer of the technical data review function to the licensing divisions will facilitate and enhance the technical assessments accorded each case by bringing together in one organizational unit the technical competence and expertise necessary to administer the complex regulations governing exports of technical data. Moreover, the time span for processing such cases will likely be improved.

To transfer responsibility to another agency would involve the establishment of a new bureaucracy, faced with the same questions and problems, and lacking the experience to deal with them.

4. Operation of ACEP.

RECOMMENDATIONS:

---Upgrade the Advisory Committee on Export Policy's Operating Committee by elevating its role in OEA with an expanded technical staff and require its work program to conform to COCOM approval time frames and employ majority rather than unanimity rule decision making. (p. 40)

---Reexamine licensing procedures and ACEP procedures to facilitate review of exception cases within COCOM time frames. (p. 50)

COMMENT: These two recommendations are related and will be treated jointly.

Elevating the role of the Operating Committee (OC) in OEA with an expanded technical staff is neither necessary nor feasible. The range of technical matters discussed in connection with matters considered in the OC is very wide. To provide an independent OC technical staff to deal with these problems would require a sizeable number of technicians and would result in a duplication of the OEA technical staff. OEA technicians, as well as technicians from other agencies, are available and, as necessary, do participate in OC technical discussions. Critical technical issues are often examined and resolved by technical task groups involving all interested agency technicians prior to submission of the issue to the OC. The OC should continue to rely on this technique.

With regard to conforming the OC's work program to COCOM approval time frames, current efforts to speed-up application processing in general will also shorten the OC review cycle. The expansion of the OEA technical staff that is underway will have a beneficial effect on OC review time frames by providing a more complete technical analysis at the outset of the Committee's deliberations with a consequent reduction in the number of technical disagreements or questions that frequently arise and cause delays.

GAO's suggestion that majority rule be employed in the Operating Committee (OC) is based on a misconception of the role of the OC. It is not a decision-making body. It is a vehicle for securing information and advice on export control matters from the Department's advisory agencies. The Committee's agency members have differing concerns and bring differing views of issues to Committee deliberations. The majority advice might

well fail to reflect adequately valid national security or foreign policy concerns. To oblige the Department to accept the advice of the majority in these circumstances could lead to unwise control decisions. Moreover, the Export Administration Act gives the Secretary of Defense authority to review license applications involving exports to the Communist countries and to recommend to the President disapproval of any application for the export of goods or technology which he believes will significantly increase the military capability of such countries. Only the President can overrule him. The statute thus effectively precludes decisions based on majority advice if the objection of the Department of Defense is in the minority.

7. Publication of Export Licenses

RECOMMENDATION: Require that public lists or some suitable disclosure be made of validated export licenses granted by OEA, including commodity designations, size parameters, and country of destination. (p. 40)

COMMENT: Each day, a list of validated export license applications approved the previous working day is published. This list provides a general commodity description, the value, and the country of ultimate destination for each item licensed. To provide more specific information would in many cases result in revealing the identities of the exporters and the exact commodity or technical data they are exporting. Such disclosure would be contrary to the provisions of Section 7(c) of the Export Administration Act of 1969, as amended, which provides that information obtained from exporters pursuant to that Act, which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing the information, cannot be disclosed unless the Secretary of Commerce determines that the withholding of the information is contrary to the national interest. We believe that such confidential treatment is important to assure that business proprietary information is not disclosed to competitors, here and abroad. Furthermore, it allows this Department to continue to receive the cooperation of the export community in providing us with information necessary to the effective administration of our statutory responsibilities under the Export Administration Act of 1969, as amended.

In addition to review of the daily list, prospective exporters can secure a good indication of licensing prospects through examination of the Export Administration Regulations and commodity interpretations, informed discussion with OEA administrators and technicians, and the receipt of non-binding advisory opinions from OEA.

6. Computerized Data Base.

RECOMMENDATION: Improve the system for screening licensing applications by adding additional computerized data bases. (p. 40)

COMMENT: The Office of Export Administration now has operational an extensive computerized data base giving details of previous licenses issued for export of computer equipment to the communist countries. The data base contains characteristics and performance parameters of computers installed in communist countries, and this is used in the licensing of computer peripherals to these countries. It eliminates the need for extensive manual information files or cross referencing indexes. This system permits rapid retrieval of the information needed to assess the impact of permitting exports of additional computer equipment.

A second system known as the license accounting and reporting system (LARS) maintains a list of export licenses which are undergoing review by Commerce or other agencies and a second data set of license files designating cases returned without action, approved, or denied. This data base of action cases serves as a means of identifying the current status of any particular application, as well as a management tool in identifying the total volume of cases under review and the stage of each in the processing cycle. The base of completed cases serves as a tool in identifying applications acted upon within a particular commodity classification or group, or for a particular applicant or destination, and can be utilized as a tool to facilitate the analysis of an application where previous licensing history may be an important factor.

The Department is considering the automation of the screening of incoming applications for known or suspected diverters of U.S. goods. One difficulty encountered is that the present equipment is not sufficiently flexible to recognize similar or misspelled names. Keeping an automated data base current at all times constitutes another problem. It is not clear that the cost of automating this phase of the program would be justified in terms of improved results.

As opportunities for effectively automating other aspects of the license application review process present themselves, they will be given serious consideration.

9. Overseas Export Control Verification.

RECOMMENDATION: OEA is directed to create an overseas export control verification and enforcement capability. (p. 50)

COMMENT: The recommendation does not give adequate attention to the assistance now being rendered abroad by the Foreign Service of the United States. Heavy reliance is placed on the Foreign Service to assist in detection and investigation of suspected or known violations. Foreign service officers examine records of importers, review manifests, conduct preshipment and postshipment checks of transactions, derive and report information from contacts with local sources, interview suspected parties, and perform a host of informational and support activities for the export control program. This, of course, is supplemented by information supplied to OEA compliance officials by intelligence sources and by U.S. firms with contacts overseas.

Under unusual circumstances an investigation of a serious violation will entail the visit of a U.S.-based OEA compliance officer to a foreign post for the purpose of conducting an extensive investigation with full cooperation from the Foreign Service and at times the foreign government. Whether the needs of the export control compliance program call for OEA compliance personnel to be stationed abroad as opposed to travelling teams of U.S.-based personnel is not clear at present. The matter is under review. Other governments may consider our compliance presence extremely unwelcome.

10. Postshipment Safeguards.

RECOMMENDATION: Undertake a study of export control implications of abandoning postshipment safeguards in considering decisions to license exports. (p. 50)

COMMENT: We recognize that many exporters consider imposition of special conditions to be burdensome, and that the safeguards may be resented by the foreign customer. However, without postshipment safeguards many of the "borderline" computers and other selective high technology items now approved with safeguards could no longer be given favorable consideration. The same would be true in the case of exports to free-world countries of products that might be reexported or diverted. If we were to abandon reexport controls and safeguards and rely strictly on the initial licensing process, we would have to place much greater restrictions on U.S. exports.

Our experience has shown that exporters would prefer to have an approval, with safeguards, than have the transaction denied outright.

11. OEA Discretion in COCOM Exception Cases

RECOMMENDATION: OEA discretion be expanded in issuing validated export licenses for commodities covered by COCOM administrative exception categories without requiring interagency review. (p. 50)

COMMENT: OEA currently has authority to process, without interagency review, most export license applications subject to COCOM administrative exception. Furthermore, this authority is now being expanded through cooperation with the other federal agencies involved in the export control process in general, and through cooperation with the Department of Defense in particular. Section 4(h) of the Export Administration Act of 1969, as amended, provides the Secretary of Defense with the opportunity to review all applications for the export of goods and technology to the Communist countries in order to determine whether such export will significantly increase the military capabilities of such countries. However, the statute allows the Secretary of Defense in consultation with the export control office, to determine those types and categories of commodities the export applications for which must be reviewed by him, leaving the others to be processed in accordance with established guidelines but without review by the Department of Defense. Recently, the Secretary of Defense reduced the list of computers and other items, applications for the export of which must be reviewed by him, thereby providing OEA with greater discretion in decisions on such applications. However, this listing does not conform to the COCOM definitions and therefore certain commodities not requiring referral to COCOM may nonetheless have to continue to be submitted to DOD for review.

12. Unilateral COCOM Actions

RECOMMENDATION: ACEP be directed to prepare an interdepartmental planning document on the relationship of present U.S. technology transfers to unilateral actions contrary to COCOM export controls and on the range of related possible U.S. responses to COCOM-country threats of unilateral action. (p. 50)

COMMENT: The issue of unilateral deviations from COCOM guidelines by participating countries is raised frequently by U.S. exporters, but infrequently substantiated. Without specific evidence it is not possible to verify the alleged violation of COCOM understandings or to initiate intergovernmental discussions on the matter.

It should be borne in mind that COCOM is a voluntary organization which, as its name indicates, coordinates the policies of independent governments. Actions in COCOM are in effect recommendations to member governments, and actions by COCOM become effective only as they are carried out by member governments through their individual export control programs under their own national laws and regulations. A basic rule of COCOM from the outset has been that there must be unanimous agreement on all COCOM final recommendations. A COCOM decision therefore means in effect that each member country has decided under its own laws and policies to embargo an identical list of items. There is no legal obligation to embargo the items, and no surrender of sovereignty.

In the case of actions on exceptions cases, while the rule of unanimity applies, there is not in reality a "veto" power. In the case of exceptions, the action of COCOM constitutes a recommendation to the exporting government. Although governments normally follow such recommendations, they do not invariably do so, if they feel deeply that their national interests require other action. In the 25 years of COCOM's existence, there have been relatively few exports made contrary to COCOM recommendations or understandings. The involvement of U.S. technology in these transactions has been slight or nonexistent. Where deviations have occurred and are demonstrated, the U.S. engages in bilateral discussions with the government concerned or in a general review within COCOM itself to determine whether or not the transaction did indeed violate COCOM understandings and to take steps to prevent a reoccurrence or to reach an agreement respecting the treatment of future transactions. Such a COCOM review may lead to discussions relating to the decontrol of the item, favorable review of exception requests, or conversely, a tightening up which would prevent further slippage.

13. BEWT Operations

RECOMMENDATIONS: The GAO makes several recommendations for improving the operations and analytic capabilities of the Bureau of East-West Trade:

> The Secretary of Commerce should require that the Bureau of East-West Trade's:
>
> ---Leadership improve coordination among its offices and, in particular, insure full and ready access to information in the Office of Trade Development Assistance.
>
> ---Office of Trade Policy and Analysis upgrade the number and quality of its personnel and have more explicit and coherent direction from office and bureau levels. As its analytic capability improves, the Office should reduce its dependence on external consultants.
>
> ---Staff work for the East-West Foreign Trade Board and working group be centered in an improved Office of East-West Trade Policy and Analysis. (p. 63)

COMMENT: The reorganization of the Bureau of East-West Trade (BEWT), which was officially instituted in November 1975, was designed to define more clearly functional responsibilities among offices, improve inter-office coordination, and strengthen analytic capabilities.

As part of this reorganization, the Office of East-West Trade Analysis was replaced by the Office of East-West Policy and Planning, which was given clearly defined responsibilities for policy research and analysis and for planning of the Bureau's program. Reassignment of staff members within the Bureau and hiring of new personnel has been carried out to give this office the number and quality of staff necessary to perform its functions. Coordination and staff work for the Department's participation in the East-West Foreign Trade Board and working group have been centered in this office, which, moreover, can draw upon the resources of the entire Bureau in support of Board-related activities.

The Office has reduced its contracting of external consultants and research, but believes that selective use of outside resources can effectively augment in-house efforts, thereby contributing to the overall efficiency of our operations.

We believe that these organizational and personnel changes, together with ongoing efforts to increase coordination and directions, respond to the intent of the GAO recommendations in this area.

14. Monitoring System Requiring Prior Notification

RECOMMENDATION: The Secretaries of State, Treasury, Commerce, and Defense should use the authority in the Trade Act, or should request new authority if necessary, to establish a monitoring system requiring prior notification of all technology protocols with the Soviet Union and Eastern Europe and of normal commercial transactions exceeding a certain amount. Data provided should include specific contract terms and, on an anonymous basis, contract prices, costs, and financing techniques and amounts. (p. 63)

COMMENT: It is our judgment that protection of the national interest and support for U.S. commercial interests can be accomplished without the additional extensive reporting and disclosure requirements recommended by the GAO, and that such monitoring, in fact, may frustrate achievement of these ends.

Technology protocols are general statements of intent to cooperate in certain specified fields. They do not in themselves constitute transfers of technology. Furthermore, any technology of strategic value which was to be transferred under the protocol, or more likely under a subsequently negotiated contract, would be subject to the existing export licensing procedures. Information in support of an application for an export license must include the nature, value, consignee, end-user, and end-use of the goods, technology, or data to be transferred. Even in the absence of a prior notification requirement, over half of the technology protocols entered into between U.S. companies and Soviet entities were provided to the Bureau of East-West Trade by the companies.

A prior notification requirement for technology protocols would complicate commercial negotiations, might require disclosure of commercially sensitive information, and would increase administrative costs for both companies and the government. Yet, such a requirement would not significantly enhance the government's ability to prevent unauthorized transfers of technology, assure adequate returns for technology, protect national security, or secure other national or commercial interests.

With respect to normal commercial transactions, the Department believes that prior notification is neither necessary nor desirable. Considerable information is already made available to the government in advance of the conclusion of contracts, especially concerning major transactions. If Eximbank financing or credit guarantees are involved, very detailed and complete information on the transaction is required. Many transactions involve an application for a validated export license with the necessary supporting information. In addition, considerable information is provided voluntarily by companies seeking advice and assistance in their business ventures. U.S. firms contemplating major transactions are usually in touch with the Bureau of East-West Trade and other Washington agencies as well as with commercial officers at U.S. Embassies.

There is a high correlation between the flow to government of information on commercial negotiations and transactions and industry's perceptions of the availability and quality of support they are likely to receive. This suggests that the government has been better advised to focus its efforts on trade assistance rather than on mandatory prior notification requirements.

Information for the sake of information is expensive and burdensome for both the reporter and the recipient. Business is already heavily burdened with reporting requirements, while the government has considerable information available to it under present procedures. In instituting new reporting requirements for either technology protocols or normal commercial transactions, we would cause increased bureaucratic regulation without any assurance of commensurate returns in either national security or commercial benefits.

15. Development of Easily Retrievable Information System

RECOMMENDATION: The Secretary of Commerce should require the Bureau of East-West Trade's Office of Trade Development Assistance to use existing data and data resulting from the new monitoring system to develop an easily retrievable information system. The Office should also more actively solicit information from U.S. firms on the impediments they face in the Soviet market. (p. 63)

COMMENT: The Office of East-West Trade Development is developing a system by which the vast amount of information already available could be more readily retrieved. Additional information will be sought and new information will be added. The information system will include, to the extent possible, specific contract terms and contract prices, costs, and financing techniques and amounts, and obstacles or barriers American firms encounter in their effort to establish or expand their position in socialist markets. American firms have not been reticent in advising us of impediments they have encountered in the Soviet and other socialist markets, but we will continue to actively solicit this information.

16. Managing Bilateral Talks and Diplomatic Missions

RECOMMENDATION: The Secretaries of State, Treasury and Commerce should insure that the conclusions emerging from the interagency study and the continuous analytic efforts recommended above form the bases for the U.S. position in Joint U.S.-U.S.S.R. Commercial Commissions and other bilateral negotiations and discussions. Diplomatic missions by individual department representatives should be fully coordinated through the East-West Foreign Trade Board and should reinforce previous U.S. Government positions. (pp. 63-4)

COMMENT: Bilateral negotiations with the nonmarket economy countries, either under the aegis of commercial commissions or other diplomatic missions, are normally preceded by extensive preparations and interagency consultations.

In the case of joint commissions, these preparations are coordinated by the Bureau's Joint Commercial Commission staff and overseen by the Working Group of the East-West Foreign Trade Board. Agendas for commission meetings are developed on the basis of proposals submitted by various agencies and previously identified commitments. Positions on particular issues are then developed by the agencies having primary responsibility. Proposals for agendas and positions are based on the knowledge and experience of agency and foreign service personnel and on the conclusions emerging from analytic efforts. Review by the East-West Foreign Trade Board Working Group of agenda and position proposals and the interagency clearance process assure that U.S. positions are properly evaluated and coordinated.

Diplomatic missions by officials of the Commerce Department will continue to be coordinated through the East-West Foreign Trade Board.

17. Focus of U.S.-Soviet Bilateral Talks

RECOMMENDATION: Bilateral discussions between the United States and the Soviet Union should focus more on Soviet buying behavior in commodity and industrial markets and less on issues related to market access. (p. 64)

COMMENT: While Soviet buying practices should be, and indeed have been, the subject of bilateral discussions, their precedence over market access issues, in our opinion, is not warranted, especially as concerns industrial markets. Without access to the Soviet market, American firms are unlikely to encounter Soviet buying practices. Further, some of the problems experienced in this area may be related to the extended lack of American access to the Soviet market and the relative newness and incompleteness of such access. Our past consultations with U.S. firms indicated that market access was an area of particular concern in which efforts by the U.S. Government would be welcomed. We believe that both sets of issues warrant attention and that the relative emphasis given these and other issues should depend on the acuity of the problems and possibilities for progress.

18. Credit Harmonization

RECOMMENDATION: The Secretaries of State, Treasury, and Commerce and the President of Eximbank should pursue credit harmonization as a long-term feature of U.S. export credit policy rather than as a temporary expedient to use or avoid depending on short-term bilateral commercial calculations. (p. 64)

COMMENT: Commerce supports the pursuit of multilateral arrangements on export credits which would reduce the concessional element in official export financing.

19. Pursuit of Proposals for Cooperation Among Enterprises

RECOMMENDATION: The Secretaries of State, Treasury, and Commerce should pursue proposals for cooperation among enterprises interested in exporting to the Soviet market. (p. 65)

COMMENT: Cooperation among U.S. and foreign enterprises interested in exporting to the Soviet Union currently does take place in a variety of ways.

Information about the Soviet trading system and business practices is exchanged among private companies through international seminars, through publications on East-West trade, and through informal contacts among area market managers representing various companies. Cooperation among American firms interested in trading with the Soviet Union led to the formation of the U.S.-U.S.S.R. Trade and Economic Council through which information is exchanged among members and joint efforts are made to obtain information and discuss Soviet commercial practices with leading Soviet foreign trade and economic officials. Cooperative efforts of American companies are supported and facilitated, as appropriate, by the Bureau of East-West Trade and the U.S. Commercial Office in Moscow.

Self-restraint by companies apprehensive of violating U.S. antitrust laws may act to curtail somewhat the scope of cooperation among companies dealing with the Soviet Union. While cooperation in such areas as exchange of information, joint buying, joint selling, or international licensing requires observance of certain precautions on the part of participating companies, such cooperation is not necessarily prevented by U.S. antitrust laws. Greater awareness of the cooperation permissible within the scope of the antitrust laws and of the availability of the Justice Department's Business Review Procedures should encourage increased cooperation among enterprises.

On the governmental level, regular discussions of Soviet business practices and economic conditions are held in the Economic Commission of NATO. Information exchanged in this fashion enables the individual governments to better advise enterprises in their respective countries.

We do not consider it advisable for the U.S. Government to take the lead in organizing cooperation among U.S. or foreign firms on particular projects or transactions. Decisions concerning cooperation are based on commercial considerations and are best left to private firms. Where firms do cooperate, the Government is prepared to offer all appropriate assistance.

20. Premature Commitments to Commercial Transactions

RECOMMENDATION: The Secretaries of State, Treasury, and Commerce should avoid any premature commitments to commercial transactions. (p. 65)

COMMENT: The Department of Commerce is not empowered to provide prior commitment as regards approval of export license applications. Companies embarking on commercial negotiations involving technologically advanced or high-priced projects often desire a preliminary indication as to the possibility of licenses. Where there is no possibility of these being granted, it would be futile and costly for them to compete for the contract. In this regard, companies may and do turn to the Department for preliminary advice and are advised that any preliminary advice given should not be taken as committing the Department to approve any licenses which might be necessary to implement the transaction.

With respect to the extension of U.S. Government supported credits, while this Department has no direct authority to provide such credits, we do play a role in this area by virtue of our participation on the National Advisory Council. Such participation does not authorize us to give any premature commitments for the extension of export credits, and we do not in fact do so.

21. Presale Discussions of Technology and Catalog of Technologies

RECOMMENDATION: Request legislation establishing the Government's authority to preclude presale discussions of strategically sensitive technologies. Commerce should develop a catalog of technologies for which U.S. firms have a monopoly but which could be exported without injury to national security. Such technologies should provide bargaining chips for Soviet concessions. (p. 65)

COMMENT: The Export Administration Regulations already require exporters to obtain Department of Commerce authorization before entering into presale discussions with Communist countries, other than Yugoslavia, relating to technologies involving items on the COCOM list where such discussions entail the disclosure of technology that has not been made generally available to the public. With respect to technology that has not been made generally available to the public and that relates to non-COCOM list items, such technology can be transferred in presale discussions with representatives of Communist countries so long as the technology does not disclose the detailed design, production, or manufacture, or the means of reconstruction of the item under discussion or its product, or the detailed technical process involved.

Finally, should the Department find it necessary, it could, under the authority of the Export Administration Act of 1969, as amended, prohibit, absent prior authorization, the presale discussion of strategically sensitive technologies on any subject with representatives of any foreign country, whether such technical data had become publicly available or not. Therefore, we believe no new legislation is needed in this area.

With regard to the recommendation that the Department should develop a list of technologies over which the U.S. has unilateral control and which do not have strategic utility, it is highly unlikely that a meaningful list could be compiled. The effort would constitute an enormous undertaking, necessitating not only an elaborate analysis of the strategic value of U.S. products, but also a complete study of foreign industries and the nature and scope of non-U.S. technologies available abroad. Any such list would be a subject of dispute and disagreement.

Attempts to obtain concessions from communist countries by withholding technology would probably yield meaningful results only when the transaction was a major one of very high interest and of pressing need to the communist country. The incidence of such transactions is low. This recommendation does not reflect the extent to which wide technological progress has taken place throughout the world, and the general ability of the Soviet Union to satisfy most of their non-strategic technological requirements in the West without recourse to the United States.

22. Supporting Corporate Interests in the Soviet Market

RECOMMENDATION: The Secretary of Commerce should:

---Instruct the Bureau of East-West Trade to more actively support corporate interests in the Soviet market. This should involve more sophisticated and detailed advice to interested companies based on the results of the analytic exercises recommended above. The Bureau should also facilitate an exchange of information among competing U.S. suppliers and should approach the Soviets directly in cases involving particularly objectionable buying behavior. (p. 65)

COMMENT: The Bureau's mission is to provide U.S. firms with the best possible support in their transactions with the Soviet Union, Eastern Europe and the People's Republic of China, and the Bureau's capability to do this increases with time. The quarter century of minimal U.S. involvement in East-West trade which created a lack of deep corporate experience in dealing with centralized, state-managed economies and their foreign trade systems also prevented development of governmental expertise in such trade and our ability to assist U.S. firms.

Since the creation of the Bureau in late 1972, the Department has moved aggressively to redress this experience gap through pooling of corporate experiences and bilateral discussions with officials of these countries. We have upgraded the quality and sophistication of our information, resources, and services, and will continue to adapt these to new requirements.

Exchange of information among competing U.S. suppliers has been proposed by the GAO and also by academic publicists as a means of preventing a cutthroat type of price and technology competition among American companies to Soviet advantage. This proposition entails many practical and normative problems whose implications have not been thoroughly explored. As one contribution to the analysis which must precede any move in this direction, the Commerce Department's Advisory Committee on East-West Trade considered the compatibility of such cooperation with U.S. anti-trust laws. The Bureau arranged for a representative of the Justice Department to address the Committee to describe the relevant factors applicable to such exchange of information among competitors and the extent to which such exchange is permissible under these laws.

Although allegations are sometimes made concerning "objectionable buying behavior" on the part of the Soviet Union, and some examples are cited, there is no clear evidence that such practices are followed consistently and to a greater degree than by other large purchasers. The Bureau advises U.S. firms about Soviet negotiating techniques, will be alert to Soviet buying behavior, and will approach the Soviets directly concerning their buying practices where this is deemed desirable. In the final analysis, however, the strongest deterrent to objectionable Soviet buying practices, if they occur, is likely to be a reticence of U.S. and other Western firms to deal constructively with the Soviets on a continuing basis.

BUSINESS IMPACT OF ANTIBOYCOTT MEASURES

Chairman MORGAN. Mr. Secretary, in the last couple of days we have heard conflicting opinions about the possible economic ramifications for the United States from enacting strong antiboycott measures. Some argue that the impact would be sizable and would entail losses to U.S. companies in hundreds of millions of dollars of Arab business. Others urge the impact would be small and U.S. business would welcome a strong law which would allow it to reject boycott requests, and that the Arab nations would back down from their threat not to deal with U.S. companies.

Mr. Secretary, would you please give us your thoughts on this matter.

Secretary RICHARDSON. Recognizing, Mr. Chairman, that whatever I say is, of course, essentially speculative, my impression is that the result of an attempt effectively to bar any compliance with the boycott would be to bring about the forfeiture of a very large amount of business being done by American firms with Arab countries. It would have a very direct impact on major construction projects carried out by American firms. It would also, apart from this economic impact, I believe, have—and I think this is even more serious—a powerfully irritating effect on the Arab countries.

On the economic side, looking at potential growth, U.S. exports to the Arab countries reached $5.3 billion last year and we expect them to reach $10 billion in 3 years if current growth rates continue.

Moreover, the U.S. Bureau of Labor Statistics estimates that each $1 billion of U.S. exports represents 40,000 to 70,000 jobs for American workers. Thus we are concerned with commercial relations which generate hundreds of thousands of jobs in the United States and we do not take lightly either the economic or diplomatic consequences that would result from an outright attempt to prohibit any form of compliance.

I might add, Mr. Chairman, that what I have said is, of course, subject to vigorous enforcement of the prohibitions against discriminatory requests, as my statement had made clear. But as I also indicated, the boycott is essentially based on economic and national grounds and does not appear to have a significantly religious or racial content.

ANTIBOYCOTT EFFORTS OF OTHER NATIONS

Chairman MORGAN. Mr. Secretary, what have other industrial countries done to deal with the boycott? Has any other nation had antiboycott legislation that you know of?

Secretary RICHARDSON. I don't know of any that has, Mr. Chairman.

Chairman MORGAN. Mr. Secretary, you have mentioned some of the antiboycott measures proposed by some of the bills which codify steps which the administration has already taken by the Executive order of the President. What would be the objection to enacting some of those measures into permanent law?

Secretary RICHARDSON. To the extent that the President has already acted I don't think there would be any objection. H.R. 11688 is an administration proposal that overlaps somewhat with respect to the prohibition of compliance with requests which would result in discrimination against U.S. citizens or firms.

DELAYS IN EXPORT LICENSE PROCESSING

Chairman MORGAN. Mr. Secretary, we have had some complaints about the workings of the Export Administration Act. The law requires that an export license be processed within 90 days unless the applicant is informed that a longer period is necessary. However, it sometimes takes longer than 90 days to process the license. Since this is in your department, why does it take so long to get a license? What would happen if Congress, when we did finally come around to marking up this bill, enacted a 60-day limit instead of a 90-day limit? Do you think that would help process licenses any faster?

Secretary RICHARDSON. As I indicated in my statement, Mr. Chairman, we found by reviewing our experience with license applications that 94 percent are now processed within 30 days and, of course, we easily live with a 60-day requirement with respect to this very large proportion.

We have been working on cutting down the number that are not processed within 30 days and we reduced that backlog as of January 22 from 306 to 75. The remaining ones, as I have indicated, are subject to problems that arise to a considerable extent out of the interagency procedures that are involved here. We are continuing to work on that problem.

Mr. Downey, Deputy Assistant Secretary for East-West Trade, has been working with representatives of the Defense and State Departments and I think the result of this will be to bring about procedural steps for cutting down the delays. We will, in addition, be looking at the substantive issues, such as those raised by the Defense Science Board report from the standpoint of trying to develop, so far as possible, clear categories or guidelines that will also contribute to the reduction of delay.

STAFFING OF THE OFFICE OF EXPORT ADMINISTRATION

Chairman MORGAN. Mr. Secretary, is the Office of Export Administration adequately staffed, both in terms of personnel and expertise of personnel, to carry out this function?

I know in your testimony you say the House Appropriations Committee not only did not approve a needed increase of $618,000, but took action which resulted in basic program reduction of $639,000 and elimination of 29 positions.

Secretary RICHARDSON. That is correct. We think that is a serious mistake on the part of the House Appropriations Committee. We are appealing that action in the Senate and hope the Senate Committee on Appropriations will restore the entire amount of the cut.

From my standpoint, Mr. Chairman, this request has the highest priority. In the relatively short time I have been in the Commerce Department, I don't know of any other matter so often brought to my attention by businessmen, and even though we have been reducing the backlog and delays, nevertheless it is a problem of chronic irritation and I think that it is a situation where we can justify the need for additional personnel.

Chairman MORGAN. Thank you.

Mr. Lagomarsino.

STATE ANTIBOYCOTT LEGISLATION

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

Mr. Secretary, one of the reasons given by witnesses who appeared here yesterday as a reason for our adopting some legislation prohibiting boycotts was, that if we don't there will be a proliferation of State actions, State legislation, that will put firms in the States that have that kind of legislation at a disadvantage compared to citizens and firms and States that do not. They were arguing it would be far better to have some kind of uniformity. Would you care to comment on that statement?

Secretary RICHARDSON. It seems to me that what is involved here really is a question of preemption of State law, or State authority by Federal action, and the question on the face of it is whether the Congress has intended to do that.

It could be argued that the Congress has already done this through the existing export control provisions dealing with the boycott. While this is a problem, I suppose you could clarify the intent of the Congress to accomplish this result under existing legislation.

Simply to amend it to require something more than what is now in the law would not by itself, I believe, have this effect. So it is not a question of more or less law, it is a question of making clear in the law, or in the accompanying legislative history at least, that the intent of the Congress has been to occupy the field and preempt State action.

Mr. LAGOMARSINO. You would agree, regardless of whether we, the Congress, enact legislation to prohibit boycotts, that we should at least speak to the issue of whether or not we have preempted the field?

Secretary RICHARDSON. Yes; I think that is a well-taken point.

EXPORT SAFEGUARDS

Mr. LAGOMARSINO. A recent GAO study recommendation that post-shipment safeguards be abandoned, in commenting on that you observe that exporters prefer approval of license request with safeguards that have the transactions denied outright. But isn't a major criticism of safeguards that they are highly ineffective?

Secretary RICHARDSON. No; I don't think so, I had not been made aware of that. I have talked to representatives of some companies mainly in the computer field that have entered into transactions subject to that kind of safeguards, and my impression is strongly to the effect that properly designed safeguards can work. The companies are willing to work with them, they have personnel in those countries trained to comply with them, and overall it is better to go that route.

Mr. LAGOMARSINO. Rather than just turn it down in the first place.

Secretary RICHARDSON. Right. It would mean in effect forfeiting the business.

CONSULTATION WITH INDUSTRY

Mr. LAGOMARSINO. How exactly is the Department consulting with industry in this area?

Secretary RICHARDSON. Continually. Mr. Downey on my right is in touch with business. I have met with some of them myself and behind me, Mr. Meyer, who administers the export control legislation, is dealing with industry continually.

Mr. LAGOMARSINO. There have been complaints that the technical advisory committees don't receive feedback on their recommendations for COCOM list changes and other matters.

First of all, is this true? And, secondly, if it is true, why is that the case?

Secretary RICHARDSON. I think there have been some complaints along these lines. We are now responding to this problem through the creation of the new subcommittee of the President's Export Council so that it can deal directly with this. Mr. John James, head of Dresser Industries is a very vigorous and effective businessman and we invited 19 representatives from electronic computer, machine tools and other industries to become members of this committee. We did consider the question of whether to have a wholly separate body. It was my feeling, since the President's Export Council already existed and is dealing with the whole broad range of export problems, that these problems on export administration, East-West trade, and so on, should fall under a subcommittee of that body and this is how we are approaching it.

Mr. LAGOMARSINO. Thank you.

No further questions, Mr. Chairman.

Chairman MORGAN. Mr. Rosenthal.

Mr. ROSENTHAL. Thank you, Mr. Chairman.

THE ARAB BLACKLIST OF U.S. FIRMS

Mr. Secretary, it is good to see you before this committee again.

I am interested in finding out what you know as Secretary of Commerce about the Arab blacklist of U.S. firms and corporations: how long has it been in existence, how many people are on it, is there more than one list, how do you get on, how do you get off? I prefer to defer a discussion of specific legislation and recommendations to some other time, but I am interested in the factual situation.

Secretary RICHARDSON. I really don't know much about it, Mr. Rosenthal. I don't really know how you get on or how you get off. We hear fragments, sort of anecdotal bits and pieces about firms that discover that they are on. They enlist some form of intermediary assistance to get off. The list, of course, is not made public and our information is very incomplete.

Mr. ROSENTHAL. I can understand that you are new in the position and I respect that but this is a very important issue. It has significant moral overtones and involves significant constitutional considerations. I am curious to know if you know how it works. What happens? Are we talking about a primary boycott, a secondary boycott, a tertiary boycott? Are you familiar with these terms?

Secretary RICHARDSON. I am familiar with these terms in a general way.

My answer to you, Mr. Rosenthal, was, while it reflects an awareness that there are limitations in my own knowledge because of the shortness of my tenure in this present job, my basic answer to you is that the Government does not know very much about the blacklist.

Mr. ROSENTHAL. The Government of the United States does not know?

Secretary RICHARDSON. They don't know how the boycott system works or rather, that the Government's information is fragmentary. We do know that the observance of the boycott or the blacklist is not uniform or consistent, that countries in given instances go forward without regard to it if they think they want to.

EXAMPLES OF HOW THE ARAB BOYCOTT WORKS

Mr. ROSENTHAL. Could you give us an example of how it works? Give us just one example of what we are talking about?

Secretary RICHARDSON. I think I touched in my testimony on one example, the kind of thing which we understand is illustrative, that being the question of what company's trucks to buy. In the case of an American firm carying on a construction project in an Arab country, if company A, a producer of trucks, is on the blacklist but company B is not, then in one way or another this information is made known and the contractor is encouraged to buy company B trucks.

Mr. ROSENTHAL. The example you just related to me is in itself a violation of the Sherman Act.

Secretary RICHARDSON. I don't think it is clear, Mr. Rosenthal, that it is a violation of the Sherman Act for reasons I spelled out in discussing the provisions of the Stevenson/K[illegible] legislation. The Antitrust Division of the Justice Department is proceeding against the Bechtel Corp., in a refusal to deal in a situation where the alleged refusal to deal is the result of an agreement or conspiracy to the effect that Bechtel will not do business with certain American companies.

But where there is no evidence that an agreement has been entered into, but simply an understanding that a proposal to do business with another company would be subject to veto or objection, then it is not clear that this would be under the antitrust law because there has been no agreement——

Mr. ROSENTHAL. You are going to use up my 5 minutes.

Secretary RICHARDSON. Well, if the assumptions of your question were ones I could agree with, I would not have to use so much time.

THE ARAB BOYCOTT AND THE MIDDLE EAST CONFLICT

Mr. ROSENTHAL. Let me be perfectly candid: knowing your background and experience I have a suspicion that, if you had available all of the information concerning the boycott and intimidation of American firms by foreign countries, you might then, be sufficiently morally outraged to seek a legislative termination of these nefarious, outrageous practices. I think—and I say this with great respect and deference—that we have all been engaged these past years in the loose use of words such as "boycott" and "blacklist" and that we have not paid much attention to the problem.

Do you think a foreign government ought to be able to decide which American firms should be able to deal with each other?

Secretary RICHARDSON. I think that from the standpoint of American policy, we should certainly discourage any such attempt by another government. The discussion we have before us is how do you get there from here? What is the best way to bring about a result that eliminates that kind of pressure or practice?

What I have said is that in the judgment of the administration, the underlying problem is the failure to achieve a settlement between Israel and the Arab countries, that we have to maintain our leverage in trying to bring about such a settlement, and that this in turn brings into play the whole range of our relations with these countries and so on.

Mr. ROSENTHAL. I understand that. We have heard that from Secretary Simon and from Secretary Greenwald. As a matter of fact, you repeat Mr. Greenwald's testimony at page 23 of your testimony where you say, "quiet and firm diplomatic efforts are yielding some success in modifying boycott procedures." The fact is boycott activities are accelerating. There has been no quiet success.

THE MORGAN GUARANTY CASE

I will give you an example of success in a case where there was resistance. Morgan Guaranty testified before my Subcommittee on Government Operations—one of your colleagues testified there, too—that they had 24 requests for letters of credit which they refused to honor. These requests were violations of Commerce Department regulations. When Morgan said "Take back your letters of credit," the offensive language was withdrawn from 23 of the letters. In other words, when an American firm offered any kind of resistance, the Arab boycotters withdrew offensive language because they wanted the goods and services that were available.

In my judgment, if the United States enacted any of these laws, if we showed any resistance, the boycott would collapse because there are 1,500 American firms on the blacklist. Some have been on 10 years. The U.S. Government is condoning the practice of buying ones way off that list by doing nothing about it.

After the President's important and signficant statement, the Commerce Department enacted some regulations. It invoked civil penalties against 200 firms that didn't even comply with the most elementary reporting requirements. But it has never lifted one exporter's license for violation of the boycott regulations, not one. The Administration instructed Secretary Morton to say, in a written communication to this committee and other committees, that he had the authority under section 4(b)1 to enact regulations making the boycott illegal. But he didn't use this power because he, too, believed that quiet persuasion would be sufficient to terminate the boycott.

That is a lot of bunk. It has not worked and will never work.

If the Arabs want to boycott the Israelis, the United States has no jurisdiction to intervene. The Arabs have been doing it for 25 years. But no country should have the ability or authority to come in here and pick and choose among American companies.

The point Mr. Lagomarsino made—and I am not sure you appreciated it—is that two States, New York and Maryland have already enacted strict antiboycott legislation. Currently Pennsylvania and two other States have strong antiboycott legislation pending. As a result of that legislation, shipping is being moved to States with no boycott legislation. In other words, the States are in a quandary, the shippers are in a quandary and the unions are up in arms. The only way to

resolve this difficulty is for the United States to declare that the boycott is illegal and to enforce the declaration.

My judgment is that, if we do that, the boycott will collapse. Your judgment is that if we act, we will anger them, we will be disruptive to Middle Eastern peace and we will jeopardize annual sales amounting to $5 billion which will hopefully go up to $10 billion by 1980.

Chairman MORGAN. The time of the gentleman has expired.

Secretary RICHARDSON. May I comment on my time?

Chairman MORGAN. We will yield the Secretary 3 minutes.

LAW ENFORCEMENT: DISCRIMINATION AND DISCLOSURES

Secretary RICHARDSON. Thank you, Mr. Chairman.

I particularly wanted to comment on the matter of the enforcement of the law with respect to discrimination and disclosures. We have, as I have indicated in my testimony, just in the last several months reviewed all the information reported to us in order to determine what instances there might be that would be subject to the prohibitions against the discrimination, which, as you say, the President very forcefully issued. We did identify a few. We also found these instances of the Star of David request, which are most likely the ones you refer to as having arisen with the New York bank, and we have done something about that.

The failures to report, of which we have identified about 200, are subject to the issuance of complaints or charging letters and I have taken the step of requiring the announcement of the issuance of any such charging letter. The ultimate disposition of these is a result of the eventual administrative process.

But as to the more fundamental question of judgment you touch on, I think you are clearly right in identifying it as a question of judgment. It seems to me implausible in the extreme that simply to enact a U.S. prohibition against the compliance with the boycott, would mean that the boycott would collapse.

There are a lot of other people out there ready to supply the Arab countries. I think the major result would not only be a loss of business to the United States but the total forfeiture by the United States of any influence with the Arab countries.

FIRMS FAVOR ANTIBOYCOTT LEGISLATION

Mr. ROSENTHAL. Let me briefly respond. A number of distinguished American firms have urged the passage of the kind of legislation I have described because they want to be able to turn down these boycott requests once and for all. Included among companies asking for legislative action both publicly and otherwise are General Mills, Bausch and Lomb, Pilsbury, First National Bank of Chicago, Northwestern National Bank of Minneapolis, the Marine National Bank of Milwaukee and dozens and dozens of others. American banks and firms are being whipsawed one against the other. If we finally say the boycott is illegal, then nobody can be discriminated against.

Secretary RICHARDSON. I think it is interesting that there are firms who take that position but, for every firm that does, I am sure it

would be possible to cite a dozen who would take the opposite position.

Mr. ROSENTHAL. But you know neither the names of anybody on the blacklist nor how many people are on it. How can your Department, this administration, make any judgment as to the need for or urgency of legislation when you don't have the facts available?

Secretary RICHARDSON. We do have the facts as to the requests, in any event, and that is the information reported to us.

In any event, the judgment involved here is primarily a foreign policy judgment, not an economic or commercial judgment. In this respect I defer to the Department of State.

BOYCOTT: "A CONSTITUTIONAL AND MORAL JUDGMENT"

Mr. ROSENTHAL. It is not a foreign policy judgment. It is a constitutional and moral judgment.

Secretary RICHARDSON. I respectfully suggest, Mr. Rosenthal, that as to the moral issue, as I emphasized in my statement, the pursuit of a Middle East settlement has the first claim on our moral concerns. There is a comparable claim with respect to the issue of discrimination and I think that our position on that is unequivocal.

But as to the question of actions of U.S. firms in response to some kind of boycott requests, that is a matter of economic warfare between Arab countries and Israel and the way to end that is to achieve a settlement.

Mr. ROSENTHAL. That is true in a primary boycott. We boycott Cuba and Vietnam but we don't tell the British to stop smoking Cuban cigars.

Chairman MORGAN. The time of the gentleman has expired.

Mr. Guyer.

AN INTERNATIONAL CODE OF BUSINESS CONDUCT

Mr. GUYER. We are pleased to have you here.

I would like to turn to a subject that may or may not be within the perimeter of our dialog today. But if we read the papers often enough and long enough, it seems that company after company has been involved in so-called paying of bribes to do business in foreign countries. They would have you believe that it turns from epidemic to pandemic. On almost every subject that brings us together on food conferences, energy, why couldn't there be a meeting of minds among countries, including ourselves, to take the leadership in establishing some kind of guidelines or eligibility to do business? I don't think that we can entirely blame people when there are certain—let's call them payments—expected. Why can't there be a license to do business with a foreign country, like a fellow pays for a license to be a plumber, or operate a store or business? I think it would clear the air and ease our thoughts on the illegality of what so many have been accused of, by so many TV, radio, and news accounts that we hear about these days.

Is there any possibility of establishing something decent and normal along this line that could stand the sunlight in that area?

Secretary RICHARDSON. I think very much so. Indeed, the United States is pursuing that kind of initiative through several international forums. We proposed to the Organization of Economic Cooperation and Development in Paris the inclusion of the strong condemnation of bribes and other related payments in the code of conduct for multinational corporations.

This code has been referred to member governments and approved and will be adopted later this month in Paris at a ministerial meeting.

We also proposed disclosure requirements for the appointment and payment of money to agents to get business with other governments at the Commission on Transnational Corporations meeting in Lima in the first 12 days of March. In addition to these steps, the Special Trade Representative of the United States, Ambassador Dent, has raised the question of incorporating similar prohibitions or condemnations, or guidelines of some kind in the multilateral trade negotiations.

So, in short, we are for whatever we can get done internationally, recognizing that the practices involved are ones that other people's companies could be engaged in if they are totally abandoned by our companies.

Mr. GUYER. I would think our companies would welcome the opportunity, if a certain kind of payment is expected. There are payments under different names, but this way the fee or license could come out in the open. It could be a business chargeoff legitimately. I think that is something that should be made publicly and I would compliment you if you could do that in the near future.

REFUSALS OF EXPORT LICENSING

One or two little things. Some exporters who are turned down on heir license applications have complained that technical dimensions of refusal were never quite explained when only a slight change would make the difference. Does the Deputy have any response to that as to how they can avert these slight obstacles that knock them out of the box when they go to apply?

Secretary RICHARDSON. I would certainly hope that we are prepared to work with companies to this end. I think Mr. Downey would be the best person to respond to that.

STATEMENT OF ARTHUR T. DOWNEY, DEPUTY ASSISTANT SECRETARY OF COMMERCE FOR EAST-WEST TRADE AND DIRECTOR OF THE BUREAU OF EAST-WEST TRADE

Mr. DOWNEY. First, we must put it into context. Less than 1 percent of the total number of applications that we have received are denied. In those rare occasions when an application is denied, we usually make every attempt to work with the company to scale down perhaps the sophistication of the piece of equipment or the technology involved so as to make it more acceptable.

This is not a complaint that we hear very frequently that in some way an export license is mysteriously rejected without any explanation.

Mr. GUYER. What about a small company that has done business with over a hundred countries, very fine people, very fine products,

are they always advised? If so, by what medium is the information made available?

Mr. DOWNEY. They have the published regulations.

Mr. GUYER. That is available to any company that wants to do business?

Mr. DOWNEY. And of course the Commerce Department has field offices in all these neighborhoods and would be able to consult locally on this.

Mr. GUYER. Thank you very much.

That is all, Mr. Chairman.

Chairman MORGAN. Mrs. Meyner.

Mrs. MEYNER. Thank you, Mr. Chairman.

ENCOURAGING EXPORT OF NONSTRATEGIC GOODS TO COMMUNIST COUNTRIES

Mr. Secretary, you mentioned in your statement that since 1969 the Office of Export Administration has taken the approach of encouraging export of nonstrategic goods to Communist countries. Could you give us any specific examples of that encouragement?

Secretary RICHARDSON. I guess what I started to say was that we, as Mr. Downey has just pointed out, do maintain a system of field offices under the Domestic and International Business Administration. Their function is to encourage exports.

The act itself states as one of its objectives the encouragement of exports. But I would have to defer to others the citation of specific instances, for instance, the directors for domestic and international business who are in all the major cities. I guess there are 40 or 50 of them around the country. Most of what they do is to help identify export opportunities for companies in their areas.

In addition to this we have established government-to-government joint commercial commissions with three of the European countries, U.S.S.R., Poland, and Romania. The U.S.S.R. Commission is chaired by the Secretary of the Treasury and the Vice Chairman is the Secretary of Commerce. The remaining two are chaired by the Secretary of Commerce. In this regard, I expect to be going to Romania some time in November. These discussions deal with trade opportunities in both directions.

EXPORTS TO THE PEOPLE'S REPUBLIC OF CHINA

Mrs. MEYNER. Can you give me any specifics on what the OEA's policy has been toward the People's Republic of China?

Secretary RICHARDSON. There is really no government-to-government contact with China on the subject of trade at this time. All the communication, or most of it, has been with, by and large, businessmen and the National Council for United States-China trade.

But Mr. Downey recently was in China.

Would you like to comment further?

Mr. DOWNEY. We maintain some commercial officers at the U.S. Liaison Office in Peking. In addition, we have commercial officers in Hong Kong to advise the businessmen. In Washington, in the Bureau of East-West Trade, we have a division which is devoted exclusively to the promotion of United States-China trade, with Chinese language

specialists and trade specialists. We also produce market research and market assessment publications to advise particular businessmen in certain nonindustrial sectors.

We have found generally the businessmen to be receptive to this sort of advice and counseling.

U.S. EXPORTS TO RHODESIA?

Mrs. MEYNER. Mr. Secretary, has the Office of Export Administration approved any exports to Rhodesia since the implementation of the United Nations embargo on trade with Rhodesia?

Secretary RICHARDSON. Not to my knowledge. I am advised that the only things that have been approved have been a few exports having some humanitarian objective.

Mrs. MEYNER. Would it be possible to get the specifics on that?

Secretary RICHARDSON. Yes; I will be glad to furnish it for the record.

Mrs. MEYNER. I would appreciate that.

[The information subsequently submitted follows:]

In the period 1975 and 1976, through June 28, the Department issued licenses for export to Rhodesia of goods valued at approximately $3.4 million. The general humanitarian character of these exports is reflected in the fact that the bulk of the $3.4 million went for medical purposes, and the remainder for education and charity.

S. 3084—DEFINITION OF "HOSTILE" COUNTRIES

Senate bill 3084 would alter the countries targeted by strategic export controls from those defined as "Communist countries" to those defined as "hostile" to the United States. Do you feel this is a useful change? How do you interpret that?

Secretary RICHARDSON. I think it would create some problems in interpretation. I suppose we could set up some advisory process in the Department of State to tell us from year to year or month to month who is hostile, but otherwise I don't know how you would administer it.

Mrs. MEYNER. I think you are right on that.

Thank you, Mr. Secretary and Mr. Deputy Secretary.

That is all, Mr. Chairman.

Chairman MORGAN. Mr. Solarz.

Mr. SOLARZ. Thank you, Mr. Chairman.

TWO OBJECTIONS TO ANTIBOYCOTT PROPOSALS

Mr. Secretary, I would like to deal with what seemed to me to be the two fundamental objections which you pose to these various antiboycott proposals now before our committee.

First, and not necessarily in order of importance, the enactment of these provisions would somehow compromise our capacity to influence the Arab countries in the direction of the kinds of overall settlement in the Middle East which in the judgment of the administration is the present condition for the elimination of the embargo. Second, if these provisions were enacted, it could in no way be expected to result in the elimination of the boycott since, in a world where there are

so many other countries and corporations eager to do business with the Arabs, one would have to prudently and pragmatically expect that the Arabs would simply shift their business elsewhere.

Now, on the first point, you have had a good deal of experience, I gather, in several departments of the Government, one of which was the Department of State. You have some familiarity with problems of international relations and the situation in the Middle East.

Why should the establishment or the enactment of these antiboycott provisions create any more problems for us with the Arab world than the massive amounts of military as well as economic assistance which we are providing on an annual basis to Israel?

I mean, there is no question it is in our interests to have some influence with the various countries of the Arab world. We certainly want to have cooperative relations with them. But I think we have recognized that we also have a very fundamental, moral and strategic commitment to the survival and security of Israel. That commitment has led us to take a variety of actions which were necessary in our relations with Israel but to some extent compromised our influence in the Arab world.

It seems the same argument that you so forcefully employed against the enactment of an antiboycott provision could be used with equal validity against supplying foreign aid to Israel on the grounds that it detracts from our influence in the Arab world. I would like to know how you deal with that kind of general observation.

U.S. INFLUENCE IN THE ARAB WORLD

Secretary RICHARDSON. I think that is a very well stated question, Mr. Solarz. I think the answer basically is—it is twofold—one, that the Arab countries recognize and respect our basic commitment to the survival and security of Israel. That is in a sense a given fact. It is also that the relationship, as they recognize, gives us some influence over Israel in the negotiating process. They know that we cannot necessarily on any given point deliver Israel, and this has been made clear over and over again. Nevertheless, the fact of our support for Israel gives us relatively greater influence in the direction of ultimate compromise and settlement than any other country can have.

And the Arabs don't really expect and would not really want us to weaken that influence and they take for granted the military support.

So far as our relations with the Arabs on the other hand are concerned, so far as our ability to influence them rests on any footing, it is in considerable measure because we do have the day-to-day dealings with them that arise out of economic relationships. We are not to a comparable degree important to them for their own national security. We do sell them some arms. We try to determine that these are primarily for defensive use, antiaircraft, and so on.

But it is a fact that we have continued to do business with them which has been, I think, a contributor to our ability to play a role in between both sides.

U.S. ARMS TRADE WITH ARAB COUNTRIES

Mr. SOLARZ. Mr. Secretary, I would submit, with all due respect, that the volume of our arms trade with the Arabs substantially ex-

ceeds the volume of our private economic activity with the Arab countries. It would seem to me, to the extent we have some influence in the Arab world, it would derive more from the billions of dollars' worth of weapons which we sell to the Saudis, the Jordanians, the Kuwaitis, and some of the other Arab states than it does from the architectural or construction contracts that go to private American firms.

In view of the fact that the Arabs are willing to buy our weapons—even though the very same companies are also selling those weapons to Israel—it would seem even in the presence of the provisions to which you object, we could fully expect the Arabs would continue to do business with us insofar as arms are concerned.

Secretary RICHARDSON. In 1975, Mr. Solarz, U.S. exports to Middle East countries totaled $5,338 million total Arab sales. Of that $346 million was military.

Mr. SOLARZ. I think if you take into consideration the total amount of money included in contracts which have been signed or negotiated with respect to the provision of military training or equipment, that it probably is substantially in excess of $5 billion. In fact, the gentleman from New York had resolutions of disapproval concerning such provision.

Secretary RICHARDSON. I would be glad to furnish a further breakdown of the military total and how it is derived.

[The information subsequently submitted follows:]

U.S. EXPORTS TO NEAR EAST COUNTRIES, 1975, CIVILIAN VERSUS MILITARY

[In millions of dollars]

	Total Exports	Of which: Special category
Arab countries	5,338	346
Syria	128	----------
Lebanon	402	1.0
Iraq	310	.1
Jordan	195	112.0
Kuwait	366	4.0
Saudi Arabia	1,502	156.0
Qatar	50	----------
United Arab Emirates	372	10.0
Yemen Arab Republic	8	1.0
Peoples Democratic Republic of Yemen	3	.1
Oman	75	1.0
Bahrain	90	.3
Morocco	200	57.0
Algeria	632	----------
Tunisia	90	1.0
Libya	232	2.0
Egypt	683	----------
Iran	3,242	602.0
Israel	1,551	528.0

Note: Figures above represent actual merchandise exports; they do not include services. Special category exports include all actual shipments of military hardware, whether under U.S. credits or grants or as commercial sales, with 1 possible exception: certain parts of military aircraft, shipped separately and sometimes not identifiable as parts of such aircraft, may be reflected in the total of commercial exports rather than in special category. Totals of special category exports are given for individual countries, but security regulations prevent the release of more detailed information such as commodity breakdowns of such exports by country.

Source: U.S. Department of Commerce, Bureau of the Census, FT 455.

MORAL OBLIGATION ON ARAB BOYCOTT

Mr. SOLARZ. Time is running out, so one final question and observation, and that is on your second point. If we adopt these provisions,

it is unrealistic to expect the boycott to collapse. You may well be right. I suspect you are. But it seems to me that the purpose of these provisions is not a pragmatic one in the sense they are designed to break the back of the boycott so much as they are a principled one based on the notion we ought not to implicitly or explicitly facilitate in one way, manner, shape, or form a secondary boycott on countries with whom we are closely associated and allied.

I would take the position that, even if all of this money and these contracts were diverted by the countries, that we still ought to go ahead on the grounds that morally we are obligated to do so.

Secretary RICHARDSON. I understand your position. I just want to make one further comment. I think it is important to distinguish among the measures that are proposed in legislation. We start, after all, with existing law and the things we are doing under existing law and then you have really a series of measures starting with disclosure, going on from there to refusal to deal, which is partly dealt with under the Sherman Act but which might be more broadly dealt with as proposed in the Stevenson-Koch legislation.

We go on from there to the outright prohibitions against any compliance with the boycott by an American firm.

The points I have been making, of course, most are applicable to the last of these. They are least applicable to the disclosure requirement. With respect to refusal to deal, the question for the administration is essentially one of restraints against trade, and the problems of proof and so on that arise if you go beyond the agreement situation.

Mr. SOLARZ. Thank you very much.

Chairman MORGAN. Thank you, Mr. Secretary.

The committee stands adjourned until further notice.

[Whereupon, at 11:40 a.m., the committee adjourned, subject to the call of the Chair.]

EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

TUESDAY, JUNE 15, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C.

The committee met at 11 a.m. in room 2172, Rayburn House Office Building, Hon. Thomas E. Morgan (chairman of the committee) presiding.

Chairman MORGAN. The committee will please come to order.

The Committee on International Relations today holds its fifth of a series of hearings on the Export Administration Act.

The primary focus of today's meeting is on high technology exports, particularly the various criticisms that have been directed at the export licensing process.

We are very pleased today to have with us two witnesses from private industry, Thomas A. Christiansen, manager for international trade relations for Hewlett-Packard Co., representing the U.S. Chamber of Commerce; and Peter F. McCloskey, who is president of the Computer and Business Equipment Manufacturers Association.

Gentlemen, you both have statements.

Mr. Christiansen, we are going to hear you first, then Mr. McCloskey, and we will use you both as a team for the question and answer period.

STATEMENT OF THOMAS A. CHRISTIANSEN, MANAGER, INTERNATIONAL TRADE RELATIONS, HEWLETT-PACKARD CO., PALO ALTO, CALIF., ON BEHALF OF THE INTERNATIONAL COMMITTEE OF THE CHAMBER OF COMMERCE OF THE UNITED STATES

Mr. CHRISTIANSEN. Thank you.

I have a prepared statement I would like to have included in the record of the hearings.

Chairman MORGAN. Without objection, your statement will be made a permanent part of the record.

Mr. CHRISTIANSEN. I am Thomas A. Christiansen, manager, international trade relations, Hewlett-Packard Co., Palo Alto, Calif., and a member of the International Committee of the Chamber of Commerce of the United States on whose behalf I am appearing today.

Accompanying me is Richard O. Lehmann, staff executive of the chamber's foreign trade policy panel.

We appreciate this opportunity to discuss the extension, which we support, of the Export Administration Act of 1969, as amended, and related issues.

The chamber's varied membership of over 60,000 business firms, 2,600 local, regional, and State chambers of commerce, 1,100 trade associations, and 38 American chambers of commerce abroad, is acutely aware of the interdependency of nations. Clearly, our export controls—particularly those in the short supply, foreign policy, and foreign boycott areas—have international implications and must be applied cooperatively whenever possible and in an enlightened and flexible manner.

The national chamber supports H.R. 7665, which extends to 1979 the authority contained in the Export Administration Act of 1969, as amended, to control exports to the extent necessary: (1) To protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand; (2) To further significantly the foreign policy of the United States and to fulfill its international responsibilities; and (3) To exercise necessary vigilance over exports from the standpoint of their significance to the national security of the United States.

CAUTIOUS USE OF EXPORT CONTROLS

Extension of the act is necessary to protect the trade, foreign policy, and security interests of the United States. We caution, however, that overuse of the short supply provisions could have serious implications for the international credibility of the United States as a reliable source of supply. The long-term effects of the hasty and ill-conceived soybean embargo of June 27, 1973, continue to be felt as many of our former customers abroad seek, and other countries provide, permanent sources of supply.

It is clear that harsh unilateral policies aimed at gaining short-term economic or political advantages are self-defeating in the long run. It is also clear that export controls, outside of security considerations, are serious policy alternatives which should be employed sparingly and with the greatest of care.

I would like to discuss several areas relating to the administration of export controls.

LACK OF POLICY DIRECTION

The first of these concerns a general lack of policy direction.

J. Kenneth Fasick, Director, International Division, General Accounting Office, in discussing a recent GAO study on East-West trade, criticized the implementation of U.S. export control policy and procedures as a "continuous series of ad hoc decisions and fragmented consideration(s)." He said that the GAO noted:

> An absence of agreement on criteria and standards for determining which goods and technology should be controlled and whether foreign policy, commercial, or defense considerations should dominate export control policy. (The GAO) concluded that lack of agreement reflects fundamental interagency and international differences regarding licensing standards and procedures to be followed in controlling exports.

It is understandable that there should be differences of opinion regarding which policy to follow in the administration of export controls, especially in relation to trade with Communist countries. Those administering the export control program work under a law, the Export Administration Act, which both restricts and encourages the export of American goods. They are also confronted with other laws, certain provisions in the Trade Act of 1974; for example, which place additional restrictions on our trade relations with the Communist countries.

This lack of policy direction is not unique to the export control process. The general lack of policy direction is more largely reflected in the conduct of international economic policy by the U.S. Government. The Government is inadequately organized to conduct a coherent international economic policy. As a result, objectives are not clearly defined, interdepartmental coordination is poor, and implementation is tentative and ineffective. Restructuring the Government's approach to international economic policy is beyond the scope of this committee's consideration of the Export Administration Act. Nonetheless, it is important to understand that difficulties stemming from unclear policy guidelines in the export control area are symptomatic of a larger, more serious problem.

Short of addressing that overall problem, the national chamber believes that the committee should consider several areas of concern.

LICENSING DELAYS

The first of these is licensing delays.

The most common complaint of national chamber members about the export control process is the length of time required to reach a licensing decision, especially on high-technology products, for export to the Communist countries. Licensing delays have continued to increase over the past 5 years and represent a critical problem for American international business. In my own company's experience, the average time required to reach a licensing decision for major transactions with the Communist countries rose from 80 days in mid-1971 to 130 to 135 days at the end of 1975.

When it is unclear how long licensing will take, business firms, especially smaller companies, encounter serious planning and motivational problems. How do you keep your sales force stimulated and your customers interested? How do you pay for penalties for late deliveries and what happens when orders are canceled? U.S. firms are at a definite disadvantage in comparison to their West European and Japanese competitors who are able to obtain licensing decisions in a more timely and effective manner. In a number of high technology areas, buyers do not even consider U.S. suppliers because of the uncertainties of our licensing process.

When the Congress last considered the Export Administration Act in 1974, the act was amended to require the processing of license applications in 90 days. If more than 90 days were required the applicant would be informed of the reason for delay and told when a decision might be reached. In the past 2 years the licensing process has lengthened rather than shortened and the unfortunate result has been the collection, by many of our members, of what have come to be known

as "90-day notices." Again, in my own company's experience, at the end of 1975 it took longer than 90 days to reach licensing decisions on almost 60 percent of our major transactions with the Communist countries.

About the first of this year, the Commerce Department initiated special steps to reduce the frequent and lengthy delays in the processing of export license applications. As Secretary Richardson testified last week, the major improvement has been a reduction in the number of applications over 30 days old in the hands of the licensing divisions from 306 at the end of January to 75 at the beginning of this month.

Unfortunately, the decrease in the number of applications under interagency review and in COCOM has been far less spectacular; from 789 in January to 516 at the beginning of this month. Although we applaud these efforts to reduce backlogs, it is unlikely that they can be maintained if the size of the export-control staff at the Commerce Department is inadequate. In this connection, this committee should view with serious concern the budgetary cuts approved by the Appropriations Committee.

CONGRESSIONAL OVERSIGHT OF EXPORT LICENSING PROCESS

Additionally, Congress has the responsibility of undertaking a far more active oversight of the export control process. Congressional hearings every 2 or 3 years at which industry unhappiness is expressed can hardly qualify as active oversight.

We believe Congress needs to have a steady flow of information on how the Commerce Department is carrying out the objectives of this act in the processing of export license applications. One method of securing this information would be to require inclusion in the Department's periodic reports to the Congress a summary of actions taken and contemplated to meet or better the 90-day limit for approving or disapproving applications.

EXPLANATION OF LICENSE DENIAL

The Senate Banking Committee bill extending the Export Administration Act, S. 3084, has proposed that an applicant for an export license be informed in writing of the specific statutory basis for the denial of any application. This could be an important improvement in assuring greater responsiveness by the Commerce Department. However, as presently phrased, the requirement could merely result in identifying which of the basic criteria of the Export Administration Act was involved. More likely than not, this criterion would be national security. Such a modification would be much more useful if it were rephrased to require an explanation of the reason, or reasons, for license denial.

TECHNICAL ADVISORY COMMITTEES

I would like to talk a bit about the technical advisory committees.

In its 1972 consideration of the Export Administration Act, the Congress established technical advisory committees to review and

make recommendations on U.S. unilateral and COCOM controls relating to current U.S. technology and strategic needs.

The use of advisory committees has a great deal of merit. For example, during consideration of the Trade Act of 1974, the national chamber developed detailed recommendations as to an advisory structure which would permit Government and industry to relate to each other in the course of the multilateral trade negotiations. This advisory structure is proving to be extremely useful in providing the Government with the information it needs to conduct the negotiations. It is also proving useful to the businessmen who participate by alerting them to problems or difficulties which may arise in the trade negotiations.

Similarly, the technical advisory committees established under the Export Administration Act, have great potential in assisting both business and Government. Through participation business can better understand how the export control process relates to U.S. security. For its part, the Government receives unique access to technical and commercial expertise which can only be provided by the private sector.

It is unfortunate that these committees have not entirely fulfilled their potential. Improvements, such as those suggested in S. 3084, to increase the Government's responsiveness to the recommendations of these committees and to assure greater continuity of the business membership could measurably increase the effectiveness of the committees.

DOD REPORT ON HIGH TECHNOLOGY EXPORTS

In its letter of invitation, the committee requested comment on the report of the Defense Science Board Task Force on the Export of U.S. Technology. The national chamber recently established a task force on technology transfer to examine problems associated with technology transfer and develop possible solutions. The task force is currently examining various proposals for technology transfer codes, and increasing trend of violations in international licensing agreements, and the role of high technology exports in East-West trade.

Because the work of our task force has not yet been completed, we would prefer to defer detailed comment on the defense science board task force report. We will be pleased to supply the committee with copies of our report when it is completed. Meanwhile, any legislative action of the defense science board's task force report should be delayed until specific detailed responses are received from the other relevant departments in the export control process and from interested parties in the private sector.

INTERNATIONAL FRAMEWORK TO DEAL WITH BOYCOTTS

I would like to spend some time discussing foreign boycotts; first the need for further legislation.

Great concern has developed over the past year as to the proper U.S. policy response to foreign boycotts as they affect the rights and actions of American citizens. Much of this concern stems from the "Arab Boycott," a generic term referring to the refusal of many Arab na-

tions to do business with individuals or companies doing business with Israel or Israeli entities. Although boycotts have become a regrettable, but acknowledged, feature of international economic and foreign policy, it has been U.S. policy, supported by the national chamber, to work vigorously on both a multilateral and bilateral basis for the curtailment and elimination of all restrictive trade practices including boycotts. Working within the international framework remains the most appropriate and most useful method of attempting to deal with boycotts.

I must stress one thing at this time. Working within the international framework to reduce and eliminate boycotts is a worthy objective up to a point. That point is exceeded when the interests and rights of American citizens are placed in jeopardy. When this occurs the national chamber believes the only course of action is steadfast, unrelenting, opposition. Sacrificing the democratic principles and egalitarian ideals on which this Nation was founded is not worth $1 of business.

ADEQUATE EXISTING NATIONAL LAWS

It is our belief, however, that there is currently sufficient legal basis to protect the rights of American citizens and companies. This view is based on a review of the Export Administration Act of 1969, as amended, President Ford's statement of February 20, 1975, supplemented by his Executive Order 11478 of November 20, 1975, and the Commerce Department's regulation of the same date. The President has stated that "Any allegations of discrimination will be fully investigated and appropriate action taken under the laws of the United States." We feel confident that these laws are adequate to deal with discriminatory or unfair trade practices, whether engaged in by foreign or domestic enterprises.

DISCLOSURE OF BOYCOTT REQUESTS

If enacted, title II of S. 3084 reported by the Senate Banking Committee, would require firms receiving information requests relative to the boycott, to report those requests to the Commerce Department, as is the case under current regulations. In addition, as is not the case under current regulations, these reports would be made public. Under these circumstances a firm's compliance with a request for information from a country sponsoring a boycott could be publicized and unfairly misinterpreted as an implication of wrongdoing, thus causing unwarranted injury to the firm. The national chamber does not support such disclosures which would erode privacy rights and put unreasonable burdens on business and individuals.

STATE ANTIBOYCOTT LAWS

The national chamber acknowledges that the response of the United States to foreign boycotts is a difficult and delicate problem with definite foreign policy implications. As I have already said, we believe that the current statutory and regulatory framework of the Federal Government is adequate to address the problem. For this reason, the increasing tendency of State governments to pass differing statutes

in this sensitive area has been disturbing. Under the Constitution the regulation of foreign commerce is the responsibility of the Federal Government and thus the national chamber urges an amendment to the Export Administration Act of 1969 which would make its anti-boycott provisions explicitly preemptive and superseding of any State laws in this area.

SEPARATE LEGISLATION

The extension of the Export Administration Act and the policy response of the United States to foreign boycotts are each important and delicate issues. We believe the Senate erred in combining these issues in one bill. Careful consideration cannot be achieved by associating disparate issues. Should the House, despite our views, develop additional legislation in the boycott area, we urge that it at least handle it separately from legislation extending the Export Administration Act.

This concludes my testimony.

I would be pleased to respond to any questions the committee might have.

[Mr. Christiansen's prepared statement follows.]

PREPARED STATEMENT OF THOMAS A. CHRISTIANSEN, MANAGER, INTERNATIONAL TRADE RELATIONS, HEWLETT-PACKARD CO., PALO ALTO, CALIF., ON BEHALF OF THE INTERNATIONAL COMMITTEE OF THE CHAMBER OF COMMERCE OF THE UNITED STATES.

I am Thomas A. Christiansen, Manager, International Trade Relations, Hewlett-Packard Company, Palo Alto, California, and a member of the International Committee of the Chamber of Commerce of the United States on whose behalf I am appearing today. Accompanying me is Richard O. Lehmann, staff executive of the Chamber's Foreign Trade Policy Panel.

We appreciate this opportunity to discuss extension, which we support, of the Export Administration Act of 1969, as amended, and related issues. The challenges facing the Chamber's varied membership of over 60,000 business firms, 2,600 local, regional and state chambers of commerce, 1,100 trade associations, and 38 American Chambers of Commerce Abroad, have made it acutely aware of the need for better understanding of, and policy planning in relation to, the interdependency of nations. Clearly, a nation's export policy, including the use of export controls, is an important part of that policy development process.

The policies which we adopt in the short supply, foreign policy and foreign boycott areas have obvious international implications. Events of the past two years, relating to petroleum price increases and threats of cartelization in other basic commodities have lent urgency to the need for an enlightened and flexible attitude on the part of Western governments. Restrictive unilateral policies aimed at gaining short-term political or economic advantages will be self-defeating in the long run. Thus, it is important to frame the appropriate approaches to such difficult issues in as cooperative and enlightened a manner as possible. In this spirit, we submit the following comments on extension of the Export Administration Act and related issues.

H.R. 7665

The National Chamber supports extension to 1979 of authority contained in the Export Administration Act of 1969, as amended, to control exports to the extent necessary:

(1) to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand;

(2) to further significantly the foreign policy of the United States and to fulfill its international responsibilities;

(3) to exercise necessary vigilance over exports from the standpoint of their significance to the national security of the United States.

Extension of the Act is necessary to protect the trade, foreign policy and security interests of the United States. We caution, however, that overuse of the short supply provisions could have serious implications for the international credibility of the United States as a reliable source of supply. The long-term effects of the hasty and ill-conceived soybean embargo of June 27, 1973 will continue to be felt as many of our former customers seek, and other countries provide, permanent sources of supply. Export controls, outside of security considerations, are serious policy alternatives which should be employed sparingly and with the greatest of care.

ADMINISTRATION OF EXPORT CONTROLS

Lack of Policy Direction

A recent GAO study[1] criticized the implementation of export control policy as a "continuous series of ad hoc decisions and fragmented considerations." The GAO noted:

> "... an absence of agreement on criteria and standards for determining which goods and technology should be controlled and whether foreign policy, commercial, or defense considerations should dominate export control policy. (The GAO) concluded that lack of agreement reflects fundamental interagency and international differences regarding licensing standards and procedures to be followed in controlling exports."

It is understandable that there should be differences of opinion in the administration of export controls as to what the correct policy posture should be, especially in relation to trade with communist countries. Those administering the export control program work under a law, the Export Administration Act, which both restricts and encourages the export of American goods. They are also confronted with those provisions of the Trade Act of 1974 which place

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[1] The Government's Role in East-West Trade - Problems and Issues, General Accounting Office, Washington, D.C., (February 4, 1976).

additional restrictions on our trade relations with communist countries.

This lack of policy direction is not unique to the export control process. Generally, the government is inadequately organized to conduct a coherent international economic policy. The problems inherent in the export control process are those more largely reflected in the conduct of U. S. international economic policy: poor interdepartmental coordination and lack of clear focus on objectives, resulting often in tentative and ineffective implementation. Although restructuring the government's approach to international economic policy is beyond the scope of this Committee's consideration of the Export Administration Act, it is, nonetheless, important to understand that difficulties stemming from unclear policy guidelines in the export control area are symptomatic of a larger, more serious problem.

Short of addressing that overall problem, the Committee should consider several areas of concern:

Licensing Delays

The most common complaint of National Chamber members about the export control process is the delay in issuing export licenses, especially on high technology products for export to communist countries. The delays have continued to increase over the past five years and represent a critical problem for American international business. When it is unclear how long it will take to receive an export license, businesses, especially smaller companies, have serious planning and motivational problems relating to their sales force, their work force and their customers -- not to mention penalties for late deliveries and cancellation of orders. U. S. firms are at a definite disadvantage in comparison to their competitors in Western Europe and Japan who are able to obtain licensing decisions in a more timely and effective manner. In a number of high technology areas, buyers do not even consider United States products because of the uncertainties of our licensing process.

When the Congress last considered the Export Administration Act in 1974, the Act was amended so that all applicants whose license applications took longer than 90 days to process would be informed of the reason for delay and when a decision might be reached. The unfortunate result has been the collection, by many of our members, of what have come to be known as "90-day notices."

About the first of this year, the Commerce Department initiated special steps to reduce the frequent and lengthy delays in the processing of export

license applications. Although we applaud these efforts, it is unlikely that they can be maintained if the size of the export control staff at the Commerce Department is inadequate. While the processing of license applications cannot be handled without adequate personnel, even if the staff is doubled there will still be indecision and tentative implementation unless strong policy direction comes from the Executive and Legislative branches of government.

Additionally, Congress has a responsibility for more active oversight of the export control process than it has so far undertaken. Congressional hearings every two or three years can hardly qualify as active oversight. We believe Congress needs to have a steady flow of information on how the Commerce Department is carrying out the objectives of this Act in the processing of export license applications. One method of determining this information would be to require inclusion in the Department's periodic reports to the Congress, as required under Section 10 of the Act, of a summary of actions taken to meet or better the 90-day limit for approving or disapproving applications.

The Senate Banking Committee bill extending the Export Administration Act, S. 3084, has proposed that an applicant for an export license be informed in writing of the specific statutory basis for the denial of any application. This could be an important improvement in assuring greater responsiveness by the Commerce Department. However, as presently phrased it could result merely in having the Commerce Department identify which of the basic criteria under the Export Administration Act was being used to control the export in question. The criterion, more likely than not, would be the national security consideration. Such an amendment would be of much greater use if it were phrased to require an explanation of the reason for a license denial.

Technical Advisory Committees

In its 1972 consideration of the Export Administration Act, the Congress established technical advisory committees to review and make recommendations on U. S. unilateral and COCOM[2] controls relating to current U. S. technology and strategic needs. The use of advisory committees has much merit in the development and administration of international economic policy.

During consideration of the Trade Act of 1974, the National Chamber developed detailed recommendations, reflected largely in the enacted law, as to how government and industry could best relate to each other in the course of the

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[2] A multilateral Coordinating Committee of fourteen NATO countries and Japan which develops common policies on strategic trade controls.

multilateral trade negotiations (MTN). This advisory structure is proving to be extremely useful in providing the government with the information it needs to conduct negotiations. This structure is equally useful to the businessmen who provide such information by alerting them to problems or difficulties which may arise in the MTN.

Similarly, the technical advisory committees established under the Export Administration Act, have great potential in assisting both business and government. Through its participation business can better understand how the export control process relates to U. S. security. For its part, the government receives unique access to technical and commercial expertise which can only be provided by the private sector.

It is unfortunate that these committees have not entirely fulfilled their potential. Improvements, such as those suggested in S. 3084 to increase the government's responsiveness to such committees and to assure greater continuity of those committees' memberships could measurably increase their effectiveness.

Transfer of Technology

In its letter of invitation, the Committee requested comment on "An Analysis of Export Control of U. S. Technology - A DOD Perspective," a report of the Defense Science Board Task Force on Export of U. S. Technology. The National Chamber recently established a Task Force on Technology Transfer to examine problems associated with technology transfer and develop possible solutions. The task force is currently examining various proposals for technology transfer codes, the increasing trend of violations in international licensing agreements, and the role of high technology exports in East-West trade.

Because the work of our task force has not yet been completed, we would prefer to defer detailed comment on the Defense Science Board Task Force Report. We will be pleased to supply the Committee with copies of our report when it is completed. Meanwhile, any legislative action on the Defense Science Board's Task Force report should await detailed responses to it from the other relevant departments in the export control process and from interested private sector parties.

FOREIGN BOYCOTTS

Need for Further Legislation

Great concern has developed over the past year as to the proper U. S. policy response to foreign boycotts as they affect the rights and actions of

American citizens. Much of this concern stems from what is known generically as the "Arab Boycott," a term referring to the refusal of many Arab nations to do business with individuals or companies doing business with Israel or Israeli entities. Boycotts have become a regrettable, but acknowledged international economic and foreign policy instrument in the postwar era. It has been United States policy, supported by the National Chamber, to pursue vigorously, in multilateral and bilateral fora, the curtailment and elimination of all restrictive trade practices including boycotts. This remains the most appropriate and most useful method of attempting to deal with boycotts in their international framework. There is no question when the interests and rights of American citizens are at stake and in jeopardy that sacrificing the democratic principles and egalitarian ideals on which this nation was founded is not worth one dollar of business.

It is our belief, however, that there is currently sufficient legal basis to protect the rights of American citizens and companies. This view is based on our review of the Export Administration Act of 1969, as amended, President Ford's statement of February 20, 1975 supplemented by his Executive Order 11478 (November 20, 1975), and the Commerce Department's Regulation of the same date. The President has stated that "any allegations of discrimination will be fully investigated and appropriate action taken under the laws of the United States." We feel confident that these laws are adequate to deal with discriminatory or unfair trade practices, whether engaged in by foreign or domestic enterprises.

If enacted, Title II of S. 3084 reported by the Senate Banking Committee, would not materially alter the current manner in which such matters are handled by the Commerce Department, with one negative exception. Provisions of that Title would require firms receiving information requests relative to the boycott, to report those requests to the Commerce Department, as is the case under current law and regulation. In addition, these reports would be made public. Thus, a firm's compliance with an information request from any country sponsoring a boycott would be publicized and could be unfairly misinterpreted as an implication of wrongdoing, causing unwarranted injury to the firm. The National Chamber does not support such disclosures which would erode privacy rights and put unreasonable burdens on business and individuals.

Federal Preemption of State Statutes

The National Chamber acknowledges that the policy response of the United

States to foreign boycotts is a difficult and delicate problem with definite foreign policy implications. As we have already noted, we believe that the current statutory and regulatory framework of the federal government is adequate to address this problem. For this reason, the increasing tendency of state governments to pass differing statutes in this sensitive area has disturbed us. Under the Constitution the regulation of foreign commerce is the responsibility of the federal government and thus the National Chamber urges an amendment to the Export Administration Act of 1969 which would make its anti-boycott provisions explicitly preemptive and superseding of any state laws in this area.

Separation of Issues

The extension of the Export Administration Act and the policy response of the United States to foreign boycotts are each important and delicate issues. We believe the Senate erred in combining these issues in one bill. The careful consideration that should be accorded policy development in both areas cannot be achieved by associating disparate issues. Should the House, despite our objections, develop additional legislation in the boycott area, we urge that it at least handle it separately from legislation extending the Export Administration Act.

Chairman MORGAN. Thank you.
We will wait until after Mr. McCloskey is finished.
You may proceed, sir.

STATEMENT OF PETER F. McCLOSKEY, PRESIDENT OF THE COMPUTER AND BUSINESS EQUIPMENT MANUFACTURERS ASSOCIATION, TESTIFYING FOR THE JOINT HIGH-TECHNOLOGY INDUSTRIES GROUP

Mr. MCCLOSKEY. Mr. Chairman and distinguished members of the committee, I am Peter F. McCloskey, president of the Computer and Business Equipment Manufacturers Association. For the purposes of this important hearing I am testifying as spokesman for an informally structured interassociation "Joint High-Technology Industries Group." The industries represented by this group are aerospace, computers, electronics, general aviation, and machine tools. These are the same industries that comprise the industrial sector identified as "high technology" by the Office of Export Administration [OEA] of the U.S. Department of Commerce. It is the products of this sector that OEA has stated gives them the most difficulty and creates the greatest delay in the processing of export license applications.

We appear as a combined group because we felt that the time constraints placed on you would preclude a full hearing of each individual association's views. The specifics pertaining to each industry are contained in the individual statements which have been or will be submitted by our respective associations to be entered into the record, along with previous testimony given March 24, 1976, before the Subcommittee on International Trade and Commerce of this committee.

Accompanying me as representatives of the industries are for Aerospace Industries Association. Mr. Al Stoffel of the Boeing Co.; Mr. Hugh Donaghue of the Control Data Corp., representing the computer industry; Mrs. Jane Davis, of G.T. & E., representing the Electronic Industries Association; and Mr. Edward Leffler, of the National Machine Tool Builders Association.

The annual contribution of our industries to the gross national product is approximately $70 billion, with $15 billion representing yearly exports. These dollar amounts are produced by the over 10 million Americans our companies employ.

The high-technology industries I represent firmly endorse the belief that this Nation's military security must not be breached. A strong, effective, efficient defense establishment is vital to our country and the free world. By the same token, the Nation's economic security must also not be breached—but must be increasingly strengthened. The high-technology industries play a vital role in both the military and economic security of this country. Our domestic sales along with our export sales make a significant contribution to the GNP of the United States and provide employment for Americans in every State. Our sales also enable us to maintain expensive research and development programs so vital to the American technological lead.

We request that you consider certain amendments to the Export Administration Act which in our opinion will continue to maintain this Nation's military security, while at the same time strenghten its

economic security through increased export sales. The importance of this act to our industries cannot be stressed strongly enough, and we hope that full consideration to positive changes to the act will be given by this committee, especially in the light of a proposed 3-year extension to the act. If, in the opinion of the committee, insufficient time remains this year for a full consideration and review of the many changes proposed in the act, you may want to recommend a simple 9-month extension of the current act—from September 30, 1976, to June 30, 1977.

EXPORT LICENSING PROVISIONS OF S. 3084

We have the following specific recommendations for amending the present Export Administration Act. First, we commend to your attention title I of Senate bill 3084 which has been approved by the Senate Banking Committee, and recommend that you adopt this title with some additions and clarifications. Title I of S. 3084 would make the following changes in the current act:

One: It would require Commerce to notify an applicant when his license is being forwarded to COCOM and permit him to review the documentation to make certain it accurately describes the goods or technology for which a license is sought;

Two: It would change the criteria for placing a country on the controlled list, so that factors other than Communist or non-Communist status are considered—these new factors would include potential friendship with the United States and willingness to control retransfers of U.S. exports;

Three: It would require an 18-month Commerce Department study, which is to include simplification of the control lists; however, in this regard, we recommend the time limit for this report to the Congress should be reduced to 9 months. This is in keeping with the rapid technological advances in our industries;

Four: It would increase the terms of the industry members of the technical advisory committees (TAC's) from 2 to 4 years;

Five: It would require Commerce to consult with the TAC's on COCOM and on a number of other issues, and if their advice is not accepted by the Government, to inform them of the reasons. However, we believe this section should be further amended to make clear that this feedback should be accomplished in a reasonable period of time. In addition, we feel that there should be interindustry communication among members of the various TAC's. Such an exchange of information which is not now permitted can lead to a more efficient, expert, and balanced advisory role for the TAC's. Such an amendment would greatly strengthen the TAC's and the export control process as a result; and

Six: Title I would also require the Department of Commerce to notify applicants of the specific statutory reason for an export license denial. We endorse this amendment; however, we believe it can be strenghtened. In our industries where technology moves so rapidly it is possible that certain license applications can be incorrectly evaluated on a technical basis. Since these technical evaluations give guidance to those responsible for making the licensing decision, we feel that an exporter should be given both the statutory and the technical reasons for a license denial.

MILITARY END-USE

In addition to the foregoing amendments offered in the Senate, we have the following recommendations:

Section 4(h) of the current act empowers the Secretary of Defense to recommend denial of an export if the goods or technology "will significantly increase the military capability" of a country within a controlled destination. Unfortunately, the Defense Department has incorrectly interpreted this language to mean "will possibly increase." The GAO Report on East-West Trade of February 1976 highlights this problem and recommends that probable rather than possible military end-use be taken into consideration. Consistent with the GAO report, we recommend that section 4(h)(1) and 4(h)(2)(A) be amended to insert the words "in all probability" before the words "significantly increase the military capability of the country * * *."

LICENSING DELAYS

The Senate Banking Committee did not directly address the problem of licensing delays in their amendments to the act. However, that committee did adopt very strongly worded report language, making clear congressional intent that these unconscionable delays should be eliminated. This distinguished committee should directly address this problem by way of statutory language. Strong policy direction is needed at the highest level of Government in both the executive and legislative branches. Without this, no streamlining of the process will be possible. More concretely, we propose that the Congress should be kept informed as to the progress being made in reducing licensing delays to the 90-day objective. This could be accomplished by amending section 10 of the Export Administration Act by the addition of a new paragraph (c) as follows:

(c) The semiannual report required for the second half of 1976 and every second report thereafter shall include a summary of those actions which have been taken or which are contemplated to meet or exceed the objective of approving or disapproving export license applications within 90 days of submission, as specified by Section 4(g).

CONGRESSIONAL OVERSIGHT

In addition, this committee may find that its oversight function will be strenghtened, if the act is extended on an annual—rather than a 3-year basis—until you are satisfied that the delay problem has been properly addressed by the agencies involved.

TECHNICALLY QUALIFIED PERSONNEL

We recommend a fulltime Operating Committee, permanently manned by technically qualified personnel from the Departments of Commerce, State, and Defense and the Energy Research and Development Administration to provide "advice and consultation" to the Department of Commerce. Other agencies could be consulted, as appropirate, on an ad hoc basis. We strongly agree with the GAO report that the unanimity rule currently practiced by the Operating Committee should be eliminated, and that the Department of Com-

merce—after having consulted other pertinent agencies—should make the final export decision taking into account all factors involved in the transaction.

We have recommended that this committee adopt statutory and report language aimed at ending the delays now inherent in the current administration of this act. If the committee finds that additional personnel are necessary to implement those recommendations, the required funds should be authorized and appropriated. Conversely, we are hopeful that the Congress will not permit understandable frustration with bureaucratic inefficiency and unresponsiveness to lead to substantial budget cuts for OEA. Clearly, this could be a step in the wrong direction.

By the same token, merely adding additional personnel will not solve the problem unless those additional personnel are adequately trained and technically qualified to evaluate the licensing of high-technology exports.

SIMPLIFED COMMODITY CONTROL LISTS

We strongly recommend that the Export Administration regulations, including the commodity control list, be rewritten so they can be readily understood, not only by major companies who have full-time staffs actively engaged in this area, but also by the many small companies who cannot afford full-time personnel to interpret the complex wording and definitions currently published by their own Government.

Further, these regulations should enable easy interpretation by Commerce Department field office personnel who are the initial contacts for most of these small companies.

UNILATERAL U.S. EXPORT CONTROLS

Finally, we believe that this committee should give serious consideration to eliminating unilateral U.S. export controls, those over and above the COCOM list. Our Government's insistence upon imposing unilateral controls serves as a severe impediment to U.S. exporters and works to the marked competitive disadvantage of American companies and the workers they employ. At the same time, unilateral controls do not prevent access of controlled countries to high technology exports because our COCOM trading partners, and other industrial nations, are ready, willing, and able to provide them.

DOD REPORT ON HIGH TECHNOLOGY EXPORTS

We would be remiss if we left here today without mentioning the report of the defense science board task force on technology transfer—commonly referred to as the "Bucy Report." The individual associations have gone into greater detail than we have time to do here, and we would be happy to answer questions concerning our views. We do have a number of reservations about this well-prepared document.

We agree that our Defense Establishment must be strong enough to deter aggression from any source, and that the national military

security must not be breached. By the same token we do not believe that the Department of Defense should be the policy strategymaking unit of our Government in the commercial arena. It definitely should have input into the decisionmaking process. However, in a civilian government such as ours, the control and administration of commerce must reside apart from the military. In summary, this report, useful as it is, should not be considered a blueprint or foundation for new legislation or changes in the present act. It should be melded with the perspectives of the other involved departments and agencies, in order that we can maintain our military strength and our economic growth, which would not be possible if this report were implemented in its entirety.

Thank you very much. In closing I refer you once again to the written testimony being submitted by each member of our high-technologies group on whose behalf I have spoken today.

The entire panel accompanying me will be pleased to answer any questions that you may have. Thank you.

Chairman MORGAN. Thank you. Mr. McCloskey. Your prepared statement will be made a permanent part of the record.

[Mr. McCloskey's prepared statement follows:]

PREPARED STATEMENT OF PETER F. MCCLOSKEY, PRESIDENT OF COMPUTER AND BUSINESS EQUIPMENT MANUFACTURERS ASSOCIATION

HIGH-TECHNOLOGY INDUSTRIES

For Aerospace: The Aerospace Industries Association, AIA.

For Computers & Business Equipment: The Computer and Business Equipment Manufacturers Association, CBEMA.

For Electronics: The Electronic Industries Association, EIA; and The Western Electronic Manufacturers Association, WEMA.

For General Aviation: The General Aviation Manufacturers Association, GAMA.

For Machine Tools: The National Machine Tool Builders Association, NMTBA.

Mr. Chairman and distinguished members of the committee, I am Peter F. McCloskey, President of the Computer and Business Equipment Manufacturers Association. For the purposes of this important hearing I am testifying as spokesman for an informally structured inter-association "Joint High-Technology Industries Group." The industries represented by this Group are aerospace, computers, electronics, general aviation, and machine tools. These are the same industries that comprise the industrial sector identified as "high technology" by the Office of Export Administration (OEA) of the U.S. Department of Commerce. It is the products of this sector that OEA has stated gives them the most difficulty and creates the greatest delay in the processing of export license applications.

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defense establishment is vital to our country and the free world. By the same token, the nation's economic security must also not be breached—but must be increasingly strengthened. The high-technology industries play a vital role in both the military and economic security of this country. Our domestic sales along with our export sales make a significant contribution to the GNP of the U.S. and provide employment for Americans in every state. Our sales also enable us to maintain expensive research and development programs so vital to the American technological lead.

We request that you consider certain amendments to the Export Administration Act which in our opinion will continue to maintain this nation's military security, while at the same time strengthen its economic security through increased export sales. The importance of this Act to our industries cannot be stressed strongly enough, and we hope that full consideration to positive changes to the Act will be given by this Committee, especially in the light of a proposed three year extension to the Act. If, in the opinion of the Committee, insufficient time remains this year for a full consideration and review of the many changes proposed in the Act, you may want to recommend a simple 9-month extension of the current Act—for September 30, 1976, to June 30, 1977.

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(6) Title I would also require the Department of Commerce to notify applicants of the specific statutory reason for an export license denial. We endorse this amendment; however, we believe it can be strengthened. In our industries where technology moves so rapidly it is possible that certain license applications can be incorrectly evaluated on a technical basis. Since these technical evaluations give guidance to those responsible for making the licensing decision, we feel that an exporter should be given both the statutory and the technical reasons for a license denial.

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We have recommended that this Committee adopt statutory and report language aimed at ending the delays now inherent in the current administration of this Act. If the Committee finds that additional personnel are necessary to implement those recommendations, the required funds should be authorized and appropriated. Conversely, we are hopeful that the Congress will not permit understandable frustration with bureaucratic inefficiency and unresponsiveness to lead to substantial budget cuts for OEA. Clearly, this could be a step in the wrong direction.

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that the Department of Defense should be the policy strategy making unit of our Government in the commercial arena. It definitely should have input into the decision making process. However, in a civilian government such as ours, the control and administration of commerce must reside apart from the military. In summary, this report, useful as it is, should not be considered a blueprint or foundation for new legislation or changes in the present act. It should be melded with the perspectives of the other involved departments and agencies, in order that we can maintain our military strength and our economic growth, which would not be possible if this report were implemented in its entirety.

Thank you very much. In closing I refer you once again to the written testimony being submitted by each member of our high-technologies group on whose behalf I have spoken today.

IMPACT OF STRONG ANTIBOYCOTT LEGISLATION

Chairman MORGAN. Mr. Christiansen, in testimony before this committee last Thursday it was suggested that many companies would welcome strong antiboycott legislation so they could assert it was against U.S. law to participate in a boycott. It was further suggested by this witness that if the United States were to take a strong stand against the boycott, the Arab nations would backdown because they want the superior U.S. products and business know-how.

Would you care to expand on these two assertions?

Mr. CHRISTIANSEN. I can give you some personal comments. The first one is that this is a judgmental area. I don't think anybody knows and there is no survey that possibly could be taken that would give definitive information.

The second point is that those people who are quite familiar with the Arab countries and with the Arabs feel that the positions they take and the requests they make, are undertaken quite seriously. It isn't a flash-in-the-pan, spur-of-the-moment thing. It is something they feel very serious about, particularly certain countries, Saudi Arabia, for example.

In the view of a number of these people, more stringent U.S. boycott rules would indeed seriously affect U.S. business and U.S. employment.

Certain products would continue to be purchased; a number of electronic items; for example, where the United States has a very strong technological edge, or where the products are far more reliable, more useful, or have some other important competitive characteristics. I suspect the Arabs would either remove the boycott provisions from their inquiries and contracts, or if a U.S. firm was unresponsive they would ignore it.

I think the danger lies in considering that all or most U.S. products have this competitive edge.

This is simply not true. U.S. products with strong competitive superiorities are very much in the minority.

My feeling is that if the United States took a very strong position and came down hard on the secondary boycott issue, the U.S. business would be affected rather severely and that this would have its impact on U.S. employment.

Chairman MORGAN. You think they would pick and choose the essential products they would let through and the other ones they would boycott?

Mr. CHRISTIANSEN. Yes; I think they would pick and choose.

DELAY IN PROCESSING EXPORT LICENSES

Chairman MORGAN. I have a two-part question. I would like to get both of your views on this question.

Both of you have criticized the length of time it takes to process high-technological export license applications. The first part of the question (*a*) would you give us your explanation of why it takes so long, and (*b*) further, which is preferable, the current system of delays, or for Congress to place a time restraint, say, of 45 days or 60 days, which might lead to more denials of licenses under the existing programs?

I would like to hear from both of you.

Mr. MCCLOSKEY. I think to answer the latter half of your question first, we are concerned about having an arbitrary early date which would facilitate the easy answer of denying an export license rather than going through the evaluation procedures required. So there is in my judgment, anyway, speaking for only one of the high-technology groups, a concern that if we did have a 45-day time limit that we would get denials rather than honest evaluations. So we are concerned that we get an honest evaluation and that that be done as expeditiously as possible.

As for the first part of your question, I think in our particular industry segment, we suspect there are sometimes political considerations that enter into the license approval phase. It is not necessarily strictly evaluated on its own merits, pa ticularly with the larger systems that come up for review, and I thing the general feeling in the administrative process is that part of the controls objective may be arrived at by not expeditiously handling the licenses themselves, that that would delay the use of the technology for a period of time.

Mr. CHRISTIANSEN. I feel the 90-day requirement is appropriate and it is a goal that can be reached. I think we have already seen some demonstration of this in the extra work the Commerce Department has done since the first of the year to reduce delays. My company is beginning to see some effect of this in our own applications and in other things that are coming through. I think 90 days is reasonable and a time frame that most exporters of high-technology products would be very happy to live with, provided that 90 days was actually achieved.

A 90-day maximum processing cycle would permit you to keep your sales force and your customers interested and still not be impossible for the Government so far as the administrative handling of applications is concerned.

Now when we come to the question of why the delays, I think we find a two-pronged problem. I think this is illustrated in Secretary Richardson's statistics. He indicated that the number of applications in the hands of the Commerce Department's licensing officers had decreased since the first of the year from 306 to 75, a very substantial reduction, but that the total number of applications in the Department only dropped to 516. I think this is the crux of the problem. Additional people in the Commerce Department can speed up the basic licensing review and get the essential staffing done, but when these applications go out to interagency review, and most of the tough ones do, it can take an indeterminate amount of time for the various agen-

cies to review the transactions for their particular viewpoints, to prepare and submit reports, and then to thrash out the issues and decide whether the U.S. Government should approve or deny.

The rule of unanimity is followed. It is true that the Secretary of Commerce—the Assistant Secretary in many cases—has the authority to approve or deny applications, but they don't do so without the support of the interagency committee. So in effect a unanimous decision is required. That is a prime area of delay and I think the solution rests on getting more and stronger people involved in the interagency committee.

Chairman MORGAN. Mr. Lagomarsino.

POSTSHIPMENT SAFEGUARDS

Mr. LAGOMARSINO. Mr. Chairman, I have one question for Mr. McCloskey. I would like to ask him to submit it for the record, though, because there is a vote on the floor.

Last Friday I asked Secretary Richardson if postshipment safeguards were useful and effective, or whether they were ineffective, and he replied they were useful and effective and caused no problems on companies to administer and perform.

I would like to have your views on that. I understand that you don't agree with that at all. I would like to have your views for the record.

Mr. MCCLOSKEY. We will be glad to address that.

[The information to be supplied for the record follows:]

CBEMA

Peter F. McCloskey
President

July 21, 1976

The Honorable Thomas E. Morgan
Chairman
International Relations Committee
United States House of Representatives
2170 Rayburn House Office Building
Washington, D. C. 20515

Dear Congressman Morgan,

This letter is in response to your Committee's request for information. In hearings June 15, Congressman Lagomarsino asked for our industry's reaction to Secretary Richardson's testimony of June 11 concerning computer safeguards. In testimony and under questioning, Secretary Richardson stated that our industry was satisfied with the way the safeguards system operates, that our industry felt safeguards could work, and that in any case we would prefer such safeguards over forfeiture of the business.

As a general statement, it is true that our member companies have accepted the safeguards system imposed upon us because the government has stated the only alternative is forfeiture of the business. But it is not true that our member companies are satisfied with the safeguards, and especially how the system works. CBEMA believes there is wide latitude for changes in the system, changes that would reduce costs to the companies and to the U. S. Government and at the same time provide adequate protection for the national security of the U. S. without the threat of forfeiture of U. S. business.

We believe that safeguards above a certain level have not been proven effective, do little to increase the inhibitions against diversion above those of lesser safeguards, are costly to the American firm, and jeopardize the safety of their employees. These particularly onerous and costly safeguard requirements are those requiring resident technicians and monitoring of systems usage. These safeguards, with their costs and risks to personnel do not add a sufficient increment of protection to justify their continuation. The residency requirement is expensive (up to $120,000 per year for one system in the U.S.S.R.), it is difficult for a company to recruit personnel

for remote locations, and the performance of the functions required by the U. S. safeguards, such as obtaining and returning to the U. S. Embassies copies of program execution data, may put them in personal danger. If the safeguard data were found to have contained State secrets, the employee could be subject to arrest for industrial espionage. The effectivess of safeguards at this level should be carefully evaluated before asking any employee of a U. S. corporation to assume these risks. But since 1971, the U. S. has insisted on these types of safeguards, without considering realistically their functional effectiveness or impact on the companies implementing them. In addition, these safeguards are imposed on all markets, even the People's Republic of China, not recognizing the different diplomatic status and refusal of the Chinese to accept such intrusion on their sovereignty. Such safeguards are totally unacceptable to the People's Republic of China.

The Computer Systems Technical Advisory Committee of the Department of Commerce addressed the issue of safeguards in May, 1974. This TAC was composed of nine knowledgeable experts in the field, seven from the government and two from industry. Those of our industry close to the subject feel the conclusions drawn at that time are still valid today. CBEMA would refer you, in your oversight capacity, to the Report of the Subcommittee on Safeguards of the Computer Systems Technical Advisory Committee dated May 24, 1974. Qualified industry members would be ready to discuss this TAC report with your committee and with Secretary Richardson. (Despite the expertise that went into the Technical Advisory Committee's deliberations, its conclusions have apparently not been accepted by the government. I say "apparently" because the committee was not informed of the results of its recommendations, and the U. S. Government continued to issue such safeguards.)

CBEMA also did a study in 1972 on the issue of safeguards. It concluded that the most effective safeguards for major computer systems would be one of "guaranteed access" to the installation and the system, on a regular and/or random basis. This would, in our view, remove many of the costs to the American firm, risks to its personnel, and irritation to the user, all without any significant increased threat of military diversion to

the detriment of U. S. national security. Attached is a copy of the CBEMA study.

The time has come to seriously reanalyze the safeguards and conditions being employed. CBEMA strongly recommends that the National Bureau of Standards be employed in exploring less costly, yet equally efficient safeguards. Attached is a copy of a letter to Secretary Richardson in this regard. The Secretary will also receive a copy of this letter.

Government and manufacturer resources are being wasted in the present process, and the ability to apply large computers for civil use is being seriously and unnecessarily curtailed. The export control community, Department of Defense, the National Bureau of Standards, and industry should review this National Bureau of Standards study upon its completion.

Your committee in its oversight capacity of the export administration process, should be aware of this problem area. You should also be aware that we have recommended an amendment to the Export Administration Act which would require that Technical Advisory Committees be informed of the results of their recommendations. The Technical Advisory Committee report referred to above has disappeared in the bureaucracy with no effect on the safeguard system. That it had no effect is one of the major reasons for this letter.

Sincerely,

PFM/llh
Enclosures

cc: The Honorable Elliot L. Richardson,
United States Department of Commerce
Congressman Robert J. Lagomarsino
Congressman Jonathan B. Bingham

STATEMENT OF THE BUSINESS EQUIPMENT MANUFACTURERS ASSOCIATION

PROPOSED COMPUTER EXPORT LICENSING REQUIREMENTS

Overview

In his 1972 Foreign Policy Report, President Nixon cited his efforts to improve and expand mutually beneficial economic relations with the USSR, Yugoslavia, Romania, Poland and Hungary. He stated:

> "Our trade with Eastern Europe since 1968 has substantially increased, and we expect it to continue to grow. Trade provides a material foundation for further development of normal relations."[1]

The Williams Report, however, describes the pervasive influence that national security and foreign policy have had on our trade relationships with East Europe and the USSR.[2]

In the past, a very restrictive export control policy has been effected through both national export control programs and the Free World COCOM system. However, the COCOM system, resting as it does on agreement among the major Free World nations, is facing increasing pressures to restrict the definitions of strategic items as the nations involved seek to normalize their relationships with East Europe and the USSR.

The U. S., however, maintains more strict controls than its COCOM partners and is meeting increasing opposition from its partners to the maintenance of controls as they increase their export capability. The Williams Report concludes:

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[1]President's Report to the Congress, "United States Foreign Policy for the 1970's: The Emerging Structure of Peace," February 9, 1972, Weekly Compilation of Presidential Documents, Vol. 8, No. 7, p. 279.

[2]Commission on International Trade and Investment Policy, "United States International Economic Policy in an Interdependent World," July 1971, pp. 260, 261.

> "The Communist nations can thus obtain from the West most goods and technologies that are restricted by the United States, but not by other COCOM countries."[3]

The conclusions to be drawn from this situation are clear: With alternate sources of supply increasingly available, U. S. controls should be identical to the COCOM controls. In addition, the U. S. control mechanism should be reformed and administrative burdens for clearly exportable items which the current system imposes on U. S. manufacturers only should be eliminated.

BEMA considered the impact of the current Export Control program in its statement "Foreign Trade Issues Affecting the Data Processing Equipment Manufacturing Industry." On page seven we stated:

> "Much could be accomplished under current law to correct existing deficiencies in the export control procedures. The recommendations following are aimed at removing the administrative burden from clearly exportable computer equipment:
>
> - The Department of Commerce should review immediately the rationale and practicality of export control to each country group with the objective of placing U. S. companies on an even footing with companies based in other COCOM countries.
>
> - The computer hardware and software products and computer systems for which export licenses have been requested in the past should then be reviewed for each country group to determine whether that product is exportable, not currently exportable, or provisionally exportable to that country group.
>
> - Products clearly exportable should be subject only to routine, periodic reporting (similar to the procedures applicable under a General Distribution License).
>
> - For provisionally exportable products, specific guidelines should be published stating, for each country group, the conditions under which those products will be granted a license.

- In those specific instances when the export of a given product could be conceivably in conflict with national policy, procedures should be established for issuance of rulings upon submission of a specific request, regardless of the status of negotiations between the vendor and vendee.

The data processing equipment industry is concerned, fundamentally, that when products are exported to Group Y countries:

- The personnel assigned by U. S. companies to support these installations are not required to perform functions for which they are not trained or which expose them, and possibly their families, to personal danger;
- That the companies in all COCOM countries are treated alike;
- That no company is required to perform actions which might be construed as espionage by the users country;
- That the conditions of licenses are not so burdensome that trading itself is made uneconomical.

The report following examines in detail currently proposed conditions to be met by licencees. These proposals in large part codify accepted practice or make reasonable extensions thereto.

There are three proposals, however, to which clear exception is taken:

- Requiring vendor personnel to report to the U. S. Government their observation of activities at the end user installation.
- Requiring vendor personnel to draw conclusions and certify the non diversion of the installation.
- Requiring, without taking all factors into account, a Western representative of the vendor to be resident at the installation.

Most of the proposals reviewed are aimed at minimizing the exposure of the equipment to diversion (by ascertaining the business of the end user, etc.). Those to which clear exception is taken, however, are designed to provide a monitoring capability. In our technical view, the current capabilities of equipment and knowledge are insufficient to assure completely that the resources of and operating installation are completely undiverted.

II. Business Equipment Manufacturers Association (BEMA)

BEMA is a trade association which has represented the business equipment industry for over fifty years. It is also the approved sponsor under the American National Standards Institute (formerly the American Standards Association) for the establishment of domestic and international standards related to information processing, computers and office machines.

BEMA is divided into two semi-autonomous product oriented groups:

- The Data Processing Group (DPG
- The Office Machines and Equipment Group (OMEG)

This statement has been prepared by the Data Processing Group. A list of the DPG member companies is attached as Exhibit A. The DPG member companies have been in the forefront of major developments in concept and application that have brought the computer and data processing field to its present significant status both domestically and internationally. They are engaged in diverse activities in this field; such as, applied research and systems development; the engineering, manufacturing, financing, sale and use of computers and related equipment; the

operation of data processing services centers; various types of support and maintenance for data processing users; the manufacture and sale of supplies required by such users; and the provision of specialized data services.

The Office of Export Control has distributed and requested comment on the proposed requirements set forth in Exhibit B - Lower Level Computer Systems and Exhibit C - Higher Level Computer Systems. In recent "exception cases" adherence has been requested also to certain Residency and Reporting Requirements (e.g. Exhibit D). While the various members of the DPG have commented or may comment individually on these proposals, this statement presents a consensus of opinion on these proposals as they would apply generally.

III. The Classification of Exportable Equipment is Unclear

The proposals appear to divide computer systems into three groups:

- Lower Level Computer Systems
- Higher Level Computer System
- Exception Cases

It is made clear that the requirements of the first category apply also to the second. We have inferred that the requirements of both categories apply cumulatively to the Exception Classification.

However, none of the classifications are quantitatively defined either by reference to Regulation 376.10 techniques or by the citation of actual equipment. It is, therefore, impossible to evaluate fully the economic impact of the various proposals.

IV. Specific Comments on "Lower Level" Computer Systems

We find these points generally to be useful and reasonable. There are three items which we believe could be made more clear. The comments following relate to the numbered paragraphs as indicated:

(1) The Commodity Control List "A" suffix is too broad for this level of equipment. The intent of the paragraph can be achieved by the enumeration of specific prohibited end uses such as "weapon manufacture, defense production, etc."

(2) It should be clear that " . . . consonant with similar applications elsewhere" takes into account the prevailing practices in the end users country rather than practices in seemingly similar U. S. applications.

(3) This paragraph might be phrased better as follows:

"The computer, its peripheral equipment and software are general purpose in nature and not specifically designed or solely utilized for military purposes."

V. Specific Comments on "Higher Level" Computer Systems

The comments following relate to the section and numbered paragraphs indicated:

I (2) The reasonableness of this proposal depends on several factors not considered in the draft:

- The geographic location of the equipment may make any on-site assignments virtually impossible.
- The stability of the equipment and its application may make any on-site assignments unnecessary in the eyes of both user and vendor.
- If the representative is not needed by the user, or the vendor, the support costs (approximately $50,000 per man year) to the vendor may make the transaction undesirable.

- Current practice provides for free access by European based support teams which visit each installation with reasonable frequency.

- The proposed requirements do not state what specific size system comes under this requirement. However, many systems, currently under consideration for marketing which might fall in the "Higher" classification would not support the cost of an on-site Western representative.

I (3) In view of the fact that sanctions may be applied to the vendor by the licensing government for failure to comply, the term "sufficient detail" is excessively vague for inclusion in the contract between vendor and user.

I (5) This requirement should have a time limit. As knowledge and technology advance, the relative power of equipment being sold currently declines until its use, for export control considerations, becomes irrelevant.

II (1) If this provision is intended to apply to the normal intra-company reporting process, it is acceptable. If, however, it is intended that special investigations shall be made by vendor personnel, followed by specific reports to the U. S. Government, it is unacceptable.

Any such reporting scheme, resulting directly from the policy of the licensing government, should be based on government personnel under a government to government agreement, not on the personnel of individual companies. The laws of the subject countries relating to the collection and transmission of information outside their borders are very strict. In the past, difficulties have been encountered in retaining notes on technical problems reported for action by the user to the vendor company. It is therefore, unreasonable to request that corporate personnel perform a function which may be interpreted as espionage activity.

In contrast, a government to government agreement would provide an appropriate degree of personal immunity to the proposed activity. It would also provide the same degree of assurance as to the end use since such inspections could be made at irregular intervals for this acknowledged purpose.

VI. Comments on the "Exception Case" Requirements

The uncertainty resulting from the lack of definition of "Lower" and "Higher" is well illustrated here. It was assumed originally that all systems were being divided into two classes. The "Exception" requirements of Exhibit D, however, apparently apply to an even Higher class. In this statement we comment on the terms of the proposed requirements of the Exception Cases. It is necessary, that, whatever the terms of the requirements, their application be clarified. It should be made clear that each group of requirements, and only those requirements, apply to certain catagories of equipment.

It is realized that the "Exception Case" requirements will vary with each requested license; therefore, our comments deal primarily with the relationship between the "Exception Case" and the "Lower-Higher" requirements.

I-A. In so far as the provision concerns representatives of the vendor, this appears to duplicate item I(1) of the "Higher" provisions.

I-B. This item duplicates item I(2) of the "Higher" requirements except for the time period. The same comments apply.

I-C. This requirement presents in acute form the concerns expressed above in relation to II(a) of the "Higher" requirements. In fact it requires the regular removal of material likely to be considered extremely sensitive by the host country authorities.

Such a requirement would be resisted vigorously by a U. S. customer. In the ordinary course of business, whether in a corporate, research or government facility, programs may be developed which are proprietary in nature and therefore not releasable to either the vendor or a U. S. agency.

I-D. "Higher" I(4) set forth a six months spares supply, any smaller spares supply would seriously jeopardize the continued functioning of the installation.

IV-C-1-3. There is no difficulty, assuming the presence of an on-site representative, with paragraphs 1, 2 and the first clause of 3, if such procedures are a part of the normal operations of the user. The second clause of 3 encounters the objections outlined above in regard to "Higher" provisions II(1) and I-C of Exhibit D.

IV-C-4. This provision goes beyond all of those above, as it requires the vendor personnel not only to observe but also to evaluate the evidence observed. It not only would impose another degree of personal exposure on the employee, but it would also expose him and his employer to later criticism by those able to review and evaluate the situation through other channels and in the light of later events.

The current Export Control Regulations 372.6(g) and 387.5(c) (Exhibit E) impose on the licensee the continuing duty to report material changes. U. S. exporters already comply with these regulations and will comply fully with them in the future through procedures in their companies which, in the ordinary course of business, detect exception circumstances.

Such reporting should be required only to the extent required of other Western computer systems of similar size installed in Eastern Europe and the USSR.

CONCLUSIONS

It is agreed that computer systems exist which, under the terms of the Export Administration Act, may not be granted a license. There are also end users to whom no or only certain categories of equipment should be exported. The proposals discussed above relate, however, to the requirements to be met by the vendor as a condition to granting an otherwise issuable license.

In the main, the "Lower" and "Higher" proposals either codify accepted practice or are reasonable extensions thereof. As a step toward establishing published, standard requirements the proposals are a significant advance.

Many of the proposed requirements are at mo 'n need of some clarification. There are three proposals to which clear exception is taken:

- Requiring vendor personnel to report to the U. S. Government their observation of activities at the end user installation.
- Requiring vendor personnel to draw conclusions and certify the non diversion of the installation.
- Requiring, without taking all factors into account, a Western representative of the vendor to be resident at the installation.

The first two requirements expose the vendor's personnel to personal danger and would severely compromise the functioning of all vendor personnel in the host countries.

Individual vendors are open to discussion of on-site requirements if all relevant factors can be taken into account in each case. A blanket requirement would jeopardize severely the continued profitability of many possible sales.

There is already a clear possibility that the manufacturers of computers in other countries will occupy the markets in these countries. It is submitted that

given an equal competitive opportunity, to the extent that U. S. based companies make sales in these countries, the U. S. national security position is improved.

In our technical opinion, whether the purpose of residency and reporting can be achieved is questionable. If this purpose is to monitor continued peaceful end use, the proposals are inadequate technically. Further, a guaranteed monitoring program is not within the capabilities of the vendors available personnel or within the state of the art of current hardware and software.

Exhibit A

DATA PROCESSING GROUP

Addressograph Multigraph Corporation

Ampex Corporation
Videofile Information Systems Division

Burroughs Corporation

Business Machines Division
The Singer Company

Computer Machinery Corporation

Control Data Corporation

Data Products Corporation

Data Recall Corporation

Digitronics Corporation

General Electric Company
Information Services Business Division
Communication Systems Business Division

GTE Information Systems, Inc.

Honeywell Information Systems, Inc.

IBM Corporation

Moore Business Forms, Inc.

Mosler

The National Cash Register Company

Olivetti Corporation of America

Pitney-Bowes, Inc.

The Standard Register Company

TRW Data Systems, Inc.

Tally Corporation

UARCO, Inc.

UNIVAC
Division of Sperry Rand Corporation

Wang Laboratories, Inc.

Xerox Corporation

EXHIBIT B

LOWER LEVEL COMPUTER SYSTEMS

Specific information shall be provided by the company indicating that:

(1) The computer equipment is intended for civilian end use and will not be used for or in support of or utilized for planning and control by organizations responsible for the design, development, production, utilization, maintenance or the training in the use of any items identified on the CCL with an "A" suffix.

(2) The proposed application and workload of the computer, its peripheral equipment and software are reasonable and appropriate for the stated end use allowing a normal margin for growth, and are consonant with similar application elsewhere.

(3) The computer, its peripheral equipment and software are not of a type used in the Free World for significant military purposes; or, if they are, effective controls have been applied to the strategically significant software.

(4) The name, location, and present activities of the end user and of any users of remote terminal devices are given.

(5) The proposed user is a bona fide user who requires the computer equipment for the stated end use; the proposed user is not also involved in significant strategic activities for which the computer equipment is likely to be used or is not closely affiliated with organizations that might foster diversion to strategic purposes and that once the computer equipment is installed in the identified position, removal of the equipment would seriously disrupt the activities of the proposed user or diverting its use for other than the stated application would be improbable.

(6) A responsible representative of the proposed user and/or the importing government or its agencies has furnished a signed statement describing the work to be performed by the computer equipment in sufficient detail to show that the end use is peaceful and indicating that the equipment will not be diverted from the authorized use.

EXHIBIT C

HIGHER LEVEL COMPUTER SYSTEMS

All of the conditions pertaining to "Lower Level Computer Systems" are satisfied and in addition the sales contract provides that:

I. (1) The end user permits periodic access to the computer facility including all equipment being supplied under this or future contracts, by Western representatives of supplier.

(2) The end user provides for responsible Western representatives of the manufacturer to be resident at the facility with free access at all times to all equipment being supplied under this or future contracts whereever located, for a period of two years after delivery and initial installation and acceptance of the equipment.

(3) The end user furnishes to the supplier information on the utilization of the computer equipment in sufficient detail to assure that the end use remains as stated.

(4) The quantity of spares to be permitted on site will be limited to that necessary for supporting the computers facility, including all equipment being supplied under this or future contracts, for a period of six months.

(5) The computer equipment will not be moved outside the territory of the importing country and any moves within the country are to be reported and approved by the licensing government. Approval may be given if the conditions of this statement of understanding are still satisfied.

(6) Exports of equipment and technology pertaining to digital, analog, and hybrid computers and related equipment and specialized parts, components, peripherals, sub-assemblies, accessories, spare parts, etc., and manufacturer support of the computer equipment will be terminated in the event that any of the above contract provisions are violated.

II. The authorization by the U. S. government to the manufacturer exporting the computer equipment specifies that:

(1) A responsible Western representative of the supplier visits the computer facility at least once every three months and reports on whether the end use remains as originally stated and the contract provisions are still in force and are being exercised.

(2) Exports of equipment and technology and manufacturer support of the computer equipment will be terminated in the event that any of the contract provisions in Part (1) above are violated of if the end use is no longer as originally stated.

(3) The manufacturer takes reasonable precautions to ensure that the object of the previous section is not defeated by diversions from other similar computer facilities.

III. The requesting manufacturer will undertake to report to the U. S. Department of Commerce annually for three years after installation and acceptance of the equipment the results of or the action taken pursuant to (II) above.

EXHIBIT D

EXCEPTIONAL CASE EXAMPLE

I. Such issuance is subject to the contract between CDC and the Institute providing that:

A. The Institute permits reasonable access, in light of established practice, to the computer facility including all equipment being supplied under this or future contracts, by resident or visiting scientists or other authorized representatives of any Western country or organization having cooperative agreements or visiting arrangements with the Institute including Western representatives of CDC.

B. The Institute provides for a responsible Western representative of CDC to be resident at the Institute with free access at all times to all equipment being supplied under this or future contracts wherever located, for a period of three years after installation and acceptance of the equipment.

C. The Institute provides to a responsible Western representative of CDC the planned work schedule for the computer, including project identifications and principal investigators;

all documentation, program decks, descriptions, etc. pertaining to problems being run on the computer; permits the representative to monitor the operation of the computer (as specified below) and transmit all documentation and the results of such monitoring to an authorized representative of the U. S. government in the United States; and permits the representative to monitor and control the utilization of spares and return to CDC all replaced major assemblies.

D. The quantity of spares to be permitted on-site will be limited to that necessary for supporting the computer for a maximum of two to three months.

E. In the event that any of these contract provisions is contravened or the monitoring of computer operation provides CDC or the U. S. government reasonable grounds for suspicion that significant diversion to strategic purposes has taken place and no satisfactory explanantion is forthcoming or the U. S. government revokes the export license, the contract will be null and void and CDC will remove all personnel from the facility and stop all support (provision of spares from the West or depots or similar computer facilities in the Soviet Bloc, training, maintenance, etc.) of the facility.

II. It is understood that the U. S. licensing authorities retain the right for any reason to revoke all export licenses concerning the computer and deny all future export licenses required for extensions to and for the operation and maintenance of the computer.

III. As conditions for granting the export license, CDC at no cost to the U. S. government:

A. Shall develop plans, procedures, programs, equipment and program modifications, etc., as appropriate, to implement the monitoring safeguards specified below and submit these for approval at least three months prior to the export of any equipment. No equipment is to be exported prior to such approval.

B. Shall provide reasonable support in developing and implementing the procedures and programs for processing the monitoring information supplied including complete descriptions and specifications of all equipment and programs supplied by CDC to the Institute.

C. Shall supply to an authorized representative of the U. S. government in the U. S. on a weekly basis all the monitoring information specified below and promptly report all changes of CDC's programs being run on the computer.

IV. The general procedures designed to detect and minimize the risk of diversion of use of the digital computer system in this case, are as follows:

A. System Configuration

1. Each major unit of the digital computer system will be equipped with digital clocks hardwired into the power supplies to record all "power-on" time. All clocks will be sealed, non-resettable, and reasonably tamper proof.

2. The digital computer system will be run under CDC's supplied operating system and will not be modified nor a different operating system used without the authorization of the Western representative of CDC. Whatever operating system is being used will provide for accounting information as indicated in C2 below.

B. Monitoring System Usage

CDC's Western representative will be responsible for:

1. maintaining or certifying the system operational and maintenance logs and for providing a weekly summary showing for each 24-hour period the switched-off time, maintenance time, idle time, and normal operational time;

2. monitoring the hardware digital clocks and correlating the "power-on" time with the operational and maintenance logs and reporting the results on a regular basis;

3. inspecting the hardware clocks periodically to ensure that to tampering with their mechanism or connections has taken place.

C. Monitoring and Safeguard Procedures

The Western representative of CDC will be responsible for:

1. obtaining the facilities schedule of system use including time allocated, purpose, project identification, user name, programs to be run, and files to be used;

2. obtaining and certifying the system journal (system logs, accounting logs, etc.) indicating project identification, user name, programs being run, files used, time on and off the system and the time used in the system;

3. obtaining and certifying all changes made to CDC's supplied software and obtaining on U. S. government request all documentation, source language program decks, descriptions, etc., for long running application or user programs;

4. certifying that the system is only being used for approved purposes and for reporting suspicions of any breach of these conditions.

V. COCOM clearance must be obtained before the license is issued, but after the foregoing arrangements between the U. S. government and CDC, and between CDC and the Institute, have been agreed upon by the several participants.

EXHIBIT E

EXPORT CONTROL REGULATIONS

372.6 (g) Changes in facts

Answers to all items on the application shall be deemed to be continuing representations of the existing facts or circumstances. Any material or substantive change in the terms of the order, or in the facts relating to the purchase transaction or other transaction, shall be promptly reported to the Office of Export Control, whether a license has been granted or the application is still under consideration. If a license has been granted, such changes shall be reported immediately to the Office of Export Control, in accordance with the provisions of paragraph 372.7 (b), even though shipments against the license may be partially or wholly completed.

Change in intermediate consignee must be reported on the Shipper's Export Declaration, and in certain cases an amendment to the export license is required. (See paragraphs 372.3 (b) (3) and 372.11 (e).)

MISREPRESENTATION AND CONCEALMENT OF FACTS

387.5 (c) Representations to be Continuing in Effect; Notification

All representations, statements, and certifications made by any person are deemed to be continuing in effect. Every person who has made any representation, statement, or certification must notify in writing the Office of Export Control of any change of any material fact or intention from that previously represented, stated, or certified. Such notification shall be made immediately upon receipt of any information which would lead a reasonable prudent person to believe that a change of material fact or intention has occurred or may occur in the future.

LETTER FROM PETER F. MCCLOSKEY, PRESIDENT OF CBEMA TO HON. ELLIOT L. RICHARDSON, JUNE 23, 1976

The Honorable Elliot L. Richardson
Secretary of Commerce
United States Department of Commerce
Washington, D.C. 20230

Dear Mr. Secretary: June 23, 1976

CBEMA has in the past and continues now to strongly urge the Department of Commerce to utilize the technical skills of the Institute for Computer Sciences and Technology, National Bureau of Standards, for technical support to the Office of Export Administration in evaluating export license applications. ICST personnel have participated also in both the Computer Systems Technical Advisory Committee and the Peripheral Products Technical Advisory Committee, and their contribution to the work of these committees has been excellent.

The ICST has recently undertaken a study of safeguards for a large computer transaction for the U.S.S.R. CBEMA feels that this is an excellent start, but would like to see the ICST enlarge its study to address the issue of more realistic safeguards as they might apply to all larger computers sold to the Communist countries.

We are concerned to learn that due to insufficient funding, ICST is not in a position to continue its support activities in evaluating export license applications, nor undertake the desired overall study of realistic safeguards for large computers and may even have to curtail its activities in the technical advisory committees. We would urge the Department to allocate sufficient funding so that ICST can provide technical support to the Office of Export Administration in these key areas.

In our view continued growth in East-West trade in our member's products depends on increased Department of

Commerce capability to adequately process license applications and establish realistic safeguards. We should be pleased to discuss this important matter further with you or your staff.

Sincerely,

PETER F. MCCLOSKEY.

Chairman MORGAN. Mr. Bingham.

Mr. BINGHAM. Thank you, Mr. Chairman.

ENFORCEMENT OF COCOM CONTROLS

Mr. McCloskey, when you and your colleagues testified before the subcommittee which I chaired last March, there were complaints that our COCOM partners are more lax than we are in enforcing the COCOM controls and that as a result business is being lost to competitors abroad.

Some of us asked you at that time for documentation of those charges, and we haven't received that documentation. Now, I know that you are not repeating that charge in your testimony today.

What is the story? Is it not really something that you can back up—you want us to forget about it, or what?

Mr. MCCLOSKEY. I think there was a specific case cited by Mr. Gray of the Machine Tool Builders Association on——

Mr. BINGHAM. We had one case in our hearings.

Mr. MCCLOSKEY. I didn't realize that I had the task to bring anything back on that. I do know that the GAO report has cited that in the area of the question that Mr. Lagomarsino just asked our COCOM partners don't place the same requirement in terms of the followup inspections that we do. So that, in the procedures that are associated with that issue, the United States is certainly more stringent.

In addition, there is the commodity control list; that is more stringent for us than the COCOM list. So that, we find that there are unilateral controls that we are faced with that are independent of the COCOM issue.

Mr. BINGHAM. We understand that, and that is a different issue.

Mr. MCCLOSKEY. Perhaps you can address that.

Mr. BINGHAM. Will you identify yourself?

STATEMENT OF EDWARD LOEFFLER, NATIONAL MACHINE TOOL BUILDERS ASSOCIATION

Mr. LOEFFLER. Yes, sir, I am Edward Loeffler, from the National Machine Tool Builders Association.

Mr. Gray is out of the country and cannot appear today. But I have one example that just came in to us, a letter from the Sunstrand Machine Tool Co., referring to the, in effect, lax interpretations overseas.

The letter is a little bit lengthy; perhaps I could submit it for the record.

Mr. BINGHAM. Yes.

[The letter referred to appears on page 411.]

Chairman MORGAN. Mr. McCloskey, at this time, do you have all those records you want to submit for the record?

Mr. MCCLOSKEY. They will be submitted individually before the hearing record date is closed.

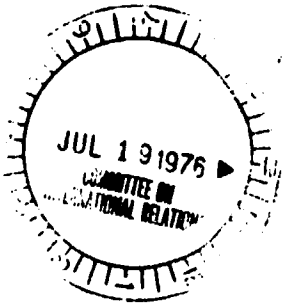
Chairman MORGAN. Fine, we will get permission now for you to submit them. Without objection, so ordered.

[The information subsequently supplied for the record follows:]

JUL 17 1976

CBEMA

Peter F. McCloskey
President



July 16, 1976

The Honorable Thomas E. Morgan
Chairman
International Relations Committee
United States House of Representatives
2170 Rayburn House Office Building
Washington, D. C. 20515

Dear Congressman Morgan,

This letter is in response to your Subcommittee's request for information made at the March 24 hearings on Export Licensing of Advanced Technology and repeated at the Committee hearing on the Export Administration Act of June 15. At the Subcommittee hearing Congressmen Bingham and Whalen requested information from the industry witnesses on cases where CoCom partners have been more lax than the U. S. in enforcing CoCom controls and where CoCom denials of U. S. exceptions cases were followed by CoCom approval of another member's similar product.

We are not aware of such cases in our industry. Our competitors in other CoCom countries do enjoy closer relationships with their governments which lead us to suspect that their governments utilize CoCom procedures to promote domestic exports as well as to reduce national security exposures. The U. S. does not promote its industry or provide competitive information through CoCom.

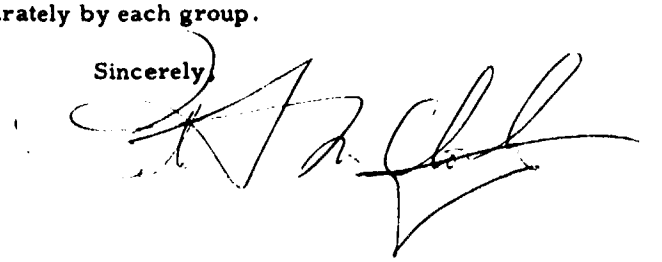
The amendments to the Export Administration Act which we recommended that would allow greater participation by industry in the CoCom process would go far toward reducing the opportunity for foreign competition to gain any unfair advantage through CoCom.

Although we have no specific examples as requested, we do have a case in our industry where export control practices are more strictly enforced by the U. S. than by our CoCom partners. This specific example in the area of

computer safeguards was given by Mr. Hugh Donaghue of Control Data Corporation during the June 15 hearing. CBEMA will address the safeguards issue in relation to Secretary Richardson's testimony of June 11, as requested by Congressman Lagomarsino, in a separate submission to follow shortly.

The above response reflects our industry's experience. The experience of the other industry groups for whom I testified on June 15 will be, or will have been, submitted separately by each group.

Sincerely,



PFM/llh

cc: Congressman Bingham
Congressman Whalen
Congressman Lagomarsino

EAST-WEST TRADE RESTRICTIONS
AFFECTING SUNDSTRAND EXPORTS

Sundstrand has constantly promoted sales of its N/C technology both here and abroad since the first Sundstrand N/C machine was produced 20 years ago.

Please note that on four occasions we participated with our N/C technology in U.S. Government sponsored exhibitions -- 1957 Sweden, 1968 Tel Aviv, 1971 Japan, 1974 USSR.

Despite our broad promotional activity which generated inquiries from all over the world, we continually refrained from offering our N/C equipment to those country groups to which shipments of such equipment and technical data is prohibited by the Export Administration Act. We would simply acknowledge inquiries from those areas by telling them that it was pointless to provide information or offers as long as export controls prevented shipment of such products.

Having participated in international exhibitions over an extended period of time, we were constantly aware of the "state of the art" overseas, particularly in Western Europe and Japan. The strongest competition for our products comes from these areas. The growth of N/C technology overseas in the 1960's was predictably slow. However, in the beginning of this decade there was literally an explosion of N/C promotion by overseas competitors.

To illustrate this, please refer to Exhibit B attached. This is a count of the different overseas companies who exhibited N/C technology at international machine tool shows open to any and all visitors and poten-

tial customers. The numbers shown are compiled from the show or exhibition catalogs published and distributed at each exhibition. All companies listed under product categories of N/C machine tools or N/C electronic controls were counted.

Please note that U.S. companies and their overseas affiliates are not included. Moreover, each foreign company is counted only once each year despite the fact that they may have exhibited in more than one international show in that year.

The substantial increase in potential overseas suppliers of N/C equipment in 1970 is significant. The appearance of several suppliers of N/C technology in Switzerland and Sweden is even more disturbing. Neither of these countries are members of COCOM.

At the most recent international machine tool show in Paris held in June this year, one of the more startling factors was the large number of N/C exhibitors from Eastern European countries, many of whom demonstrated their machines with N/C control systems originating in England, France, Germany, Italy, Norway and Sweden.

At the beginning of 1971, it seemed obvious to us that availability of restricted N/C technology to Eastern European countries was only a matter of time. We were invited to participate in an "industry organized government approved" trade mission to the USSR, and as a result of the planned mission, we received a formal inquiry from the appropriate Soviet Ministry for offers on our N/C machining centers.

At that point in time, we considered it appropriate to proceed with quotations. We believed it important to penetrate the Eastern Europe

market as quickly as possible, in view of competition particularly from the non-COCOM countries (Switzerland and Sweden).

Moreover, while we could not compete with our standard non/NC machines, we did have experience advantage over our foreign competitors on our N/C equipment. Conventionally controlled machine tools of U.S. origin could not compete pricewise with European sources.

Accordingly, in 1971 we submitted offers on our N/C machining centers. Subsequent discussions revealed Soviets were interested in our five-axis machining centers. At that point in time, discussions centered on potential purchase of 20 to 30 large machining centers annually over a period of five years (value $500 M ea.).

Naturally we informed the client that validated export licenses would have to be obtained and that information on end use was essential to our applications for such licenses.

In March 1972, the Soviets informed us that, due to urgent need of the machining centers, orders would be placed elsewhere in Europe. They cited uncertainty and delays anticipated in obtaining U.S. export licenses. They also objected to supplying the required end-use statement form FC-842 which they considered demeaning. According to them, no other country required such forms to support export license applications.

However, we persisted and succeeded in obtaining a signed end-use statement from Stankoimport to cover one 5-axis machining center for the Zil auto plant in Moscow to machine engine blocks and dies. With this, we submitted our application for export license to the Commerce Department on April 14, 1972.

After numerous meetings in Washington with various agencies and with several inter-agency groups, we were asked to withdraw our application in August 1972 and to re-submit it in the following year.

On January 17, 1973, we re-submitted our application as requested. Along with our re-application, we submitted additional published reports of N/C technology being made available or sold to Eastern Europe. At about the same time, another client in the U.S.S.R. requested an offer from us on a four-axis machining center. He indicated funds were already appropriated for acquisition of this equipment.

We submitted our offer stating that we were simultaneously submitting an application for export license to Washington to obtain an advisory opinion as to whether an export license could be obtained. The equipment was destined for the Gorky automotive plant for production of auto parts and dies.

After additional Washington meetings and numerous follow-ups, we received rejection notices on both applications in February 1974.

As a direct result of our participation in the government approved trade mission to Moscow in 1971, we were invited to participate in the United States exhibition of machine tool equipment arranged by the Bureau of East-West Trade in the Department of Commerce. We elected to exhibit a three-axis machining center with tape control and with specifications which, in our opinion, would (under Interpretation 7 in Section 399.2 of the Export Regulations) qualify the machine and controls for exemption from the control list of commodities requiring validated export licenses.

Nevertheless, we submitted to the appropriate agency in the Department of Commerce a full description of the equipment to be exhibited and we were assured that, unless the end-use was for military purposes, we could sell the equipment at the show and we could expect to have approval of the sale from COCOM thru the Office of Export Administration in 30 to 45 days.

Our exhibited equipment was sold during the Stanki Show to a non-military end user and, in accordance with instructions, we submitted our request for approval of the sale to the Office of Export Administration. Several visits to Washington for meetings with inter-agency groups were necessary before approval of our sale was granted more than three months after the sale at the show. Meanwhile, the equipment was moved to Helsinki for storage pending this approval. We believe this approval would have taken much longer if COCOM and inter-agency approval had not been forcefully expedited by the Bureau of East-West Trade.

In the past two years and as a result of our Moscow exhibition, we have received inquiries and we have quoted N/C machining centers to the U.S.S.R. and to Poland in substantial volume totaling approximately $30 million. In all instances we have attempted to quote machines and controls of lesser sophistication in order to qualify for exemption from validated export license requirements. The comment most heard from our potential clients in Eastern Europe is "Why can't you offer more sophisticated machines and controls? We can procure them from other sources but we would prefer to buy from you."

It is a known fact that the Soviets have taken delivery of about 30 three-axis N/C machining centers from an Italian builder. The machine models involved normally require validated licenses if shipped from U.S.

source. The Italian builder, who makes controls as well as the machines, "claims" to have made an irreversible modification to inhibit his numerical control system so as to qualify it for exemption from COCOM control.

Through sources encountered at the recent Paris international machine tool show, we have learned that this same Italian builder has signed a contract to supply approximately 100 additional machining centers having four axis of motion with the fourth motion in a rotating table. We consider our informant very reliable as his firm is building on sub-contract some of the mechanical components for this particular program.

More recently when we checked on the status of our offers to the U.S.S.R., we have been told that machine tools required by them were being procured elsewhere because of the credit limitation in the 1974 Trade Act. Specifically, we were asked if the machining centers we offered could be obtained from licensees in countries which had extended more liberal credit

In summary, Sundstrand's exports of machine tools have been severely restricted by the combination of credit limitation and by U.S. interpretation of COCOM controls. To illustrate the latter, please see Exhibit C citing published information on N/C technology supplied to Eastern Europe by our COCOM "partners", and/or available from non/COCOM sources.

The availability of sophisticated N/C equipment in Europe, as evidenced at the Paris show in June, would seem to make our present export controls on these commodities not only obsolete but actually a unilateral restriction on U.S. builders. We believe the export controls should be relaxed if not entirely eliminated on all multiple axis numerically controlled machining centers.

EXHIBIT B

OVERSEAS COMPANIES DEMONSTRATING N/C MACHINES AND/OR CONTROLS AT INTERNATIONAL MACHINE TOOL EXHIBITIONS (U.S. COMPANIES AND SUBSIDIARIES EXCLUDED)

Year	Show Site	W. German	French	English	Italian	Benelux	Norwegian	Spanish	Japanese	Swiss	Swedish	E. European	Total
1968	London & Tokyo	10	2	18	1	0	0	0	20	3	1	0	55
1969	Paris	13	13	2	1	1	0	0	0	0	0	0	30
1970	Chicago Hanover & Osaka	61	8	9	4	1	0	0	27	8	2	1	121
1971	Milano & Sydney	48	18	12	64	1	1	0	4	11	3	1	163
1972	Chicago & Tokyo	17	3	3	8	1	0	0	50	9	1	2	94
1973	Hanover	64	8	14	6	2	1	0	9	13	6	3	126
1974	Chicago	16	2	3	2	1	0	1	14	1	3	1	44
1975	Paris	56	55	12	49	6	1	8	7	32	7	24	257

EXHIBIT C

SOME PUBLISHED INFORMATION ABOUT N/C TECHNOLOGY AVAILABLE TO EASTERN EUROPE

Publication	Date	Item
Metalworking News	Feb. 71	Vickers UMAC to sell 100 N/C units to Stankoimport
LeFigaro - (Paris)	Feb. 72	French-built computer "loaned" to the U.S.S.R.
Iron Age International	Feb. 72	British Vero Co. sells 22 N/C machines to U.S.S.R.
British Machinery	Apr. 72	Brown Boveri (Switzerland) announce N/C with integr. circuits
Japan Machy. News Japan Economic Journal	Apr. 72 May 72	(Fujitsu-Japan signs "technology exchange" agreement (with U.S.S.R. and P.R.C.
British Machinery	May 72	SAAB (Sweden) announced continuous path N/C system
Industrie Anzeiger	May 72	N/C machs. included in West German exhibition in Moscow
Iron Age International	June 72	French Alcatel Co. sells electronic equipment to Stankoimport
Industrie Anzeiger	June 72	Numerically controlled machining center made in Poland
Eastern European Report	Jan. 73	French Berthiez sells 20 VTL machines with 3 computers
Eastern European Report	Jan. 73	Swiss machine tool exhibition in Moscow announced
Gebr. Hoffman Catalog	Apr. 72	Dusseldorf N/C exhibit includes E. German N/C machines
Industrie Anzeiger	Nov. 72	BRND (Czech.) Fair includes N/C machining centers
Machine Moderne (France)	Apr. 73	N/C, CNC & DNC developments at Leipzig Spring Fair
Industrie Anzeiger	May 73	Eastern Europe N/C machines at Leipzig Spring Fair
Aviation Week	June 73	Russian N/C machines at Voronezh Aircraft Plant
Aviation Week	July 73	Editorial - "The Paradox of Voronezh"
American Machinist	April 75	Soviets show multi-axis N/C at Leipzig
Industrie Anzeiger	May 75	Czech. & E. German N/C machines at Leipzig Fair

.../...

Publication	Date	Item
Eastern Europe Report	July 11, 75	Italian Olivetti renews 5-year N/C pact with U.S S.R. French M.T. builders sell machines to Stankoimport
Eastern Europe Report	July 25, 75	Swedish SAAB supplies computer tech. to Poland for resale. French company sells computers to U.S.S.R. Japanese Hitachi pursues tech. tie-up with Romania.
Users Reference List	-	Kongsberg-Norway supply CNC control to U.S.S.R.
Advertisement	-	GSP-Forest (France) illustrates machine size and type sold to U.S.S.R. with Kongsberg controls (Qty. 30 to 50)
Catalog - (Olivetti)	-	Illustrates (30) three axes and (100) four axes N/C machining centers sold to U.S.S.R.
Catalog - (SMT-Sweden)	-	Illustrates N/C mach. not subject to COCOM control
Catalog - (WMW Heckert)	-	Machining system made in East Germany
Photo & Catalogs	-	Swiss CNC Machining Center exhibited at Paris M.T. Show
Brochure & Photos	-	Soviet machining center & machining system exhibited at Paris M.T. Show. (item from Metalworking News also included)

74-772 O - 76 - 27

Sundstrand Machine Tool
unit of Sundstrand Corporation

NEWBURG ROAD, BELVIDERE, IL 61008 • PHONE 815 547-5321 • TELEX 25-7456

June 8, 1976

Mr. James A. Gray
Executive Vice President
National Machine Tool Builders' Association
7901 Westpark Drive
McLean, Virginia 22101

Dear Jim:

Attached is a copy of a letter that has been sent to the Office of Export Administration in connection with three pending export license applications on 5-axis NC machining centers.

The principal point we want to emphasize is the existence of a contract between Olivetti and Stankoimport on 100 four and five axis machining centers. Dick Stank was recently in Torino and was shown the machines in process of assembly and test at the SASS plant.

Cordially yours,

V. J. Rigotti, Manager
International Operations

VJR:jv
att.

Sundstrand Machine Tool
unit of Sundstrand Corporation

NEWBURG ROAD BELVIDERE, IL 61008 • PHONE 815 547 5321 • TELEX 25-7456

June 8, 1976

Office of Export Administration
U. S. Department of Commerce
14th and Constitution Ave., NW
Washington, D.C. 20230

Attention: Mr. Joseph Dytrt, Division Director
Capital Goods and Production Materials

Gentlemen:

Sundstrand has pending three export license applications for shipment of 5 axes NC machining centers to Eastern Europe and China. These are the following:

OEC Case #	Date	Client	End Use
A-201227	3-18-76	China National Technical Import Corp.	Compressor Impellers
A-210727	5-25-76	Stankoimport - USSR	agricultural machinery components
A-211929	6-2-76	Masinexportimport - Romania	air engine housings

All of these applications are for machining centers first designed and built before 1960. Designs containing later technology in more than three axes are not presently being offered to Communist Bloc countries.

Sundstrand has always maintained that the vast potential market for machining centers in Eastern Europe and China was being kept off limits to American suppliers while other members of COCOM were allowing their own builders to deliver much of the same technology prohibited by U.S. export controls. In previous meetings with various government agencies on this subject, we were constantly asked to provide any evidence that came to our attention which involved the sale of multiple axes machining centers and controls to Eastern Europe.

Several years ago, we reported the sale of 30 NC machining centers to the Soviet Union by the Olivetti Company of Ivrea, Italy. At that time, we were informed that COCOM had approved the shipments on the basis of

an irreversible modification to the Olivetti controls which allowed simultaneous coordination of only two of the three or four axes. We gave our opinion at that time that this sale by Olivetti would win repeat orders for them because of the apparently lenient interpretation of the COCOM rules by the Italian authorities.

During the Paris machine tool show in June of 1975, we received reports of a new Olivetti/Stankoimport NC machining center contract. We can now substantiate that report and state that Olivetti has signed contracts to supply to the Soviet Union 100 additional four and five axes numerically controlled machining centers. The model being supplied is the Horizon 4/CN5D as specified and illustrated on the attached pamphlet and translation.

Of special interest are the control specifications which clearly indicate the optional fifth axis as well as the availability of CNC-DNC functions. By mounting the optional second rotary table in vertical attitude on the horizontal 4th axis rotary table, the Olivetti machining centers achieve essentially the same capability as the Sundstrand OM3 Omnimil Machining Centers.

We are prepared to submit a sworn statement by a recent Sundstrand visitor to Italy who has seen the 5-axis versions of the Olivetti Horizon 4/CN5D in various stages of assembly and test. These particular models were being manufactured by SASS, S.p.A. in Borgaretto (Torino) Italy, under sub-contract from Olivetti.

Our man was told that 30 of the 100 machining centers covered by the new current Olivetti/Stankoimport contract are to be 5-axis machines while the balance of 70 are 4-axis machining centers.

It is our opinion that the Olivetti machining centers on this new contract are equal to and contain as much up-to-date technology as any machining centers and numerical controls being offered by current U.S. builders. Most certainly the Olivetti machining centers contain technology that is of later development than our OM3 Omnimil Machining Centers which were first built seventeen years ago.

The current Olivetti/Stankoimport contract for 100 four and five axes machining centers following the original contract for 30 "so-called" two and three axes machines is ample proof of our contention that the most recent export control changes are still too little and too late. If U.S. builders are not allowed to compete on an equal basis, we will

be shut out of that market permanently. No amount of administrative exceptions or other political devices can disguise the fact that U.S. builders are being discriminated against by the current U.S. interpretation of the COCOM agreements.

We strongly urge the approval of our three pending applications, based on our contention that the equipment we are proposing to supply is not of the newest and latest NC technology. While the purpose of the COCOM regulations is to prevent the transfer of technology, we think exceptions already taken by many other COCOM members have long since defeated that purpose.

Yours very truly,

V. J. Rigotti, Manager
International Operations

VJR:jv
enc.

P.S. Of further interest in this vein, we also attach photographs and specifications of a multiple axes machining center exhibited at the Canton Spring Fair 1976 by the Chinese.

cc: James Gray
R.V. Miskell
Wm. Clarke
Dick Stank
Bob Tilson
John Kerwitz

THE MACHINE TOOL TRADES ASSOCIATION

Registered Office
62 BAYSWATER ROAD, LONDON, W2 3PH TELEPHONE: 01-402 6671 (10 lines) TELEX: 27829

Inland Telegrams: Toolexhib, London, Telex · Overseas Cables: Toolexhib, London, S.W.1

Mr James A Gray
National Machine Tool Builders Association
7901 Westpark Drive
McLean
USA - Virginia 22101

Airmail
1 April 1976

Dear Jim

Referring to your telex of 26 March regarding contraventions of the Cocom embargo, we have just heard from Maurice Hewitt as follows:

1 GSP 3B machining centre with Kongsberg CNC to Stankoimport, 60 off to machine turbine blades. Confirmed by British Embassy 16 January 1976.

2 Makino machining centres with Fanuc T10 DNC adaptive control. 4 off to Stankoimport.

3 Japanese machining centre with Okipath 660 CNC to Stankoimport.

4 Hille Hinschel 3 axis machining centre with Siemens 550 CE to Russia.

5 I have seen 3 and 4 axis machining centres with various Siemens controls, mainly 550 series, in Gottwaldof in Czechoslovakia.

6 I have also seen PCB drills in Lemz in Leningrad. These were modern American types, which appeared to have CNC controls. The Russians confirmed this but were not willing to show me the equipment close up.

7 Forest were exhibiting their own CNC system at Leipzig. This would not have been done without the intention to sell to the East Germans.

Additionally from this office we have some indication that a UK Government revised Export Control Order is to be issued on 12.4.76 which will release further - but not all - NC systems and machines from control.

Yours sincerely

Howard

national machine tool builders association
7901 WESTPARK DRIVE
McLEAN, VIRGINIA 22101
AREA CODE (703) 893-2900
TWX 710-831-0031

September 3, 1975

Mr. E. H. Stroh
Deputy Director of East-West Trade
U. S. Department of Commerce
Washington, D. C. 20230

Dear Mr. Stroh:

As I promised in our very informative meeting at the White House Tuesday, August 19, I am enclosing written evidence (March 3 letter from W. M. Ritter) of the availability of numerically-controlled, multi-axes machine tools to Eastern Europe. Following our meeting, I learned that this letter was read at the March 17, 1975, meeting of the Numerical Control Machine Tool Technical Advisory Committee and was incorporated into the minutes.

In paragraph four, Mr. Ritter refers to machines provided by Norway, which incidentally is a COCOM signatory; therefore, along with France, it has either been subverting COCOM regulations or obtaining COCOM approval -- either way to the competitive disadvantage of American machine tool builders.

Obviously, if the French and Norwegians, among others, are being authorized by COCOM to ship restricted numerically controlled equipment to Eastern Europe, the authorities of the Departments of Commerce and Defense must be aware of this activity. And, this situation raises the question -- why are U. S. builders restricted from shipping competitive equipment?

If some COCOM signatories are shipping in violation of the agreement, the only practical effect of the COCOM regulations is to discriminate against American machine tools, and this is contrary to our national interest. American workers are denied jobs, but even more important, our defense posture is weakened because we are unable to maintain our technological posture in the machine tool world.

We do believe there is value in preventing the shipment of strategic military materials; however, the COCOM regulations go far beyond this objective. Accordingly, the other COCOM signatories do not have the same dedication as U. S. government officials in the rigid interpretations of the regulations.

In the absence of a uniform interpretation of the COCOM machine tool regulations and the inability of the U. S. to institute such a policy, a more realistic approach is imperative if we are to maintain a viable machine tool industry in the U. S.

We will continue to provide you with information substantiating the capability of the U. S. S. R. to obtain or produce COCOM controlled equipment. As Mr. Loeffler pointed out in his prepared remarks, hard evidence is difficult to obtain because of the reluctance of either COCOM "violators" or East European importers to go on the record; however, as these products become easier and easier for the East European buyers to obtain, we will find the evidence easier and easier to provide. Hopefully, by that time, it will not be too late.

Sincerely yours,

James A. Gray
Executive Vice President

JAG:jk

Enclosure

MAR 6 1975

GIDDINGS & LEWIS, INC.
P.O. BOX 590, 142 DOTY STREET, FOND DU LAC, WISCONSIN, U.S.A. 54935
TELEPHONE (414) 921-9400, TWX 910 275-1084, TLX 26 2722, CABLE GIDLEWIS

This letter was read to the NC TAC at the March 17, 1975, meeting and recorded in the minutes - also a hard copy was included in the minutes

March 3, 1975

Mr. Curt Altbaier, Chairman
Numerically Controlled Machine Tool
Technical Advisory Committee
Cincinnati Milacron Inc.
4701 Marburg Avenue
Cincinnati, Ohio 45209

Subject: Technoimpex Offer
Budapest, Hungary

COPY

Dear Curt:

Attached is a copy of a letter and the supporting literature recently received from Technoimpex, the Hungarian machine industry's foreign trade company.

They previously had written to G&L offering to sell us controls for machines destined for the Socialist countries. To get more information, I responded to that letter; and this is the information I received.

You will note that they are offering multiple axis contouring controls of the hard wired type; and in the last paragraph of the first page, they state that they are negotiating with San Giorgio, the original supplier, for CNC controls.

Along these same lines, this past week we were visited by Dale Marvid and Per Lindung of the Frank Mohn Company of Bergen, Norway. This company has been buying machine tools equipped with Norwegian built Kongsberg CNC controls. They advised that Kongsberg has recently concluded an agreement with GSP of France to furnish approximately thirty CNC controls for machines to be shipped to the Soviet Union. While Norway is not a member of the COCOM pact group, France is; and any shipment of CNC controlled machines would certainly be a breach of the COCOM agreement.

Further, Allan McKay, President of Giddings & Lewis, and I had the opportunity to visit the Sverdlov Works at Leningrad, U.S.S.R.; and during our tour of the plant, we were shown their latest Soviet developed hard wired multi-axis contouring control complete with CRT readout. The technician working on the control spoke perfect English and in fact demonstrated the CRT diagnostic capabilities. The control we were viewing was attached to a horizontal boring machine and was capable of operating three axes or more motions under continuous path control simultaneously.

This was not a demonstration rigged for our advantage. In fact, it was quite accidental that I saw the control and got into the discussion with the technician. The machine to which the control was attached was in their general assembly floor area next to equipment being built for LaSalle. It was not in their R&D Department, and the viewing of the machine and control system was not arranged by our hosts. I am convinced that the disclosure was not prearranged, as the technician was in the process of changing an IC chip at the time I started to speak to him; and he openly admitted that there were certain problems they were encountering in getting the control into satisfactory operation.

I am quite positive that the above information is further illustration that the Socialist countries have access to all technical knowledge required for building not only three or more axis contouring controls but CNC systems as well and that our COCOM associates are not complying with the existing regulations.

The information from Technoimpex is self-explanatory, and I have the original documents in my possession should they be needed by the committee. I am also prepared to issue a written statement that both Allan McKay and I will sign concerning the control system we saw at the Sverdlov Works, and I believe I can obtain a written statement from Kongsberg concerning their work with GSP for shipments to the Soviet Union as we are well acquainted with their management and have cooperated with them in other matters.

I should further state that while walking through the Sverdlov Works we saw a substantial quantity of Siemens and Alcatel controls ready for marriage to various machine tools. We were told by the Soviet representatives that these were three and four axis contouring controls. Further, in discussions with Stankoimport personnel, I was advised that they were obtaining three or more axes machining centers from Germany, France and other European suppliers; and they could not understand why the U.S. companies were reluctant to quote on such equipment.

In general, the experiences that I have personally had in these countries I am sure would convince anyone that our present COCOM agreement is of no value other than to restrict U.S. builders from participating in this market. I am reasonably confident that I can arrange visits for any of the government members of our committee that would like to observe these situations first hand including a visit to the Kongsberg factory in Norway, the Sverdlov Works in Leningrad, and discussions with Stankoimport in Moscow. Although I have not investigated the possibilities, it is entirely probable that we could get an invitation for them to visit the GSP plant in France, if that would be of value.

Giddings & Lewis has had no direct contact with Siemens or Alcatel so I am not in any position to judge their willingness to cooperate, but other members of the committee may have closer relations with them and could investigate those possibilities.

It should be noted that San Giorgio has obviously stepped outside the agreement as well in their arrangements with Technoimpex.

I regret that my itinerary for a trip to the Far East was established prior to notification of the meeting of the committee planned for March 17, and it does not appear that I will be able to make a change in that itinerary at this late date. I am vitally interested in the results to date and offer my complete cooperation to be of any further assistance to the group on return from my Far Eastern trip, which will be about April 14.

Sincerely,

William M. Ritter
Vice President - International Sales

Enclosures

cc - Mr. Ed Loeffler

a/8120

UNGARISCHES AUSSENHANDELSUNTERNEHMEN FÜR DIE MASCHINENINDUSTRIE
HUNGARIAN MACHINE INDUSTRIES FOREIGN TRADE CO.
ENTREPRISE HONGROISE POUR LE COMMERCE EXTÉRIEUR DE MACHINES

VOTRE LETTRE DU – YOUR LETTER OF
IHR SCHREIBEN VOM:

VOTRE REF. – YOUR REF. – IHR ZEICHEN:

NOTRE REF. – OUR REF. – UNSER ZEICHEN:

56 010 7DB/LE

GIDDINGS & LEWIS, INC.

P.O.Box 590
140 Doty Street,
Fond du Lac, Wisconsin

USA 54935

William M. Ritter -Vice President-
International Sales

Dear Sirs,

Re: Sale of San Giorgio numerical controls, manufactured under licence, with your machines

Referring to our correspondence on the above topic, we feel that it is important to inform you about the developments of the matter.

The reason for our not writing for a long time is not that we do not take interest in the matter but in the contrary the manufacture and the sale of the controls under licence have got to a point where we are able to determine much more clearly than ever before the form of our collaboration. The circumstantial market research completed in the meantime seems to support our optimism. Your machines with our control can be sold in much larger quantities than with any other control in socialist countries generally. The basic point as we have already written to you is that the control could be offered against payment in Roubles. We have confidence furthermore in the manufacture of 40 controls acquiring satisfactory experience this year.

As you already know our Italian partner displayed a complete CNC control with the members of the MAC5 5 group at the recent Machine Tools Exhibition, "INU in Milan. International technical quarters expressed a very positive opinion - after the Exhibition - of the Italian numerical control family which is suited for the simultaneous control of max. 8 axes. In professional circles it is supposed that Elsag controls will have an effect e.g. also on the new CNC makes of the Bendix and General Electric companies.
On the other hand we experienced an increasing interest - in the course of our market research campaign in socialist countries - for CNC controls. In the consequence of the above we consider starting conversations with our Italian partner regarding the purchase also of the MAC5 5 licence.

If completing our product range with the said controls, we should be in a position to be at the disposal even of the most exacting people with quotations for a complete range of products. Another result of the mentioned market research is that buyers in socialist countries are looking for automatic systems provided with small computers. Therefore we have also started looking for the possibilities of getting such an equipment. We think that the SELEAPT /MODULAPT/, developed by SELENIA-SAN GIORGIO which is a 32 kb computer system worked out for the control of max. 2 1/2 axes so far with unitary software and abundant hardware, suits very well the demand of socialist buyers.

In such a way these equipments are included in our offer spectrum, with this and our servicing we can unitarily submit a quotation for our customers or for our collaboration. We feel that the co-operation in question needs personal discussions by all means during which our specialists could discuss the interface questions at least to an extent that is needed for the mutual submitting of the quotation besides the commercial details of the problem.

We are looking forward to your suggestions by the time of our talks at the beginning of 1975.

Yours faithfully

Department for PC-Machines
and Co-operation Deals

Z. Dakk dr.B. Dory

Brown & Sharpe
Machine Tool Division International Marketing Group

Brown & Sharpe Limited
2 Boeing Way,
Southall, Middlesex, UB2 5LB
England
Telephone: 01 574 6451
Telex: 934498
Telegrams: BandS, Southall

AB/mg

14th February 1976

National Machine Tool Builders' Association,
7901 Westpark Drive,
McLean,
Virginia 22101
U.S.A.

For the attention of
MR. JAMES A. GRAY - Executive Vice President

EXPORT CONTROL REGULATIONS

Dear Jim,

Earlier this year in your Bulletin 75-13 of February 7th you requested any information we may pick up concerning N.C. exports into Eastern Bloc territories falling outside the commodity control list specifications.

The French company, G.S.P. Forest, obtained a large order at the beginning of last year consisting of approximately 78 machining centres of various types. These machines were alleged to be fitted with Scandinavian CNC controls.

In Moscow during December we found out the following. The control system is Norwegian Kongsberg CNC 3-axis simultaneous, or more. The machines including interface but without control units are to be shipped directly into the Soviet Union. Kongsberg ship the control unit independently directly into the USSR for marriage there. Kongsberg are supposed to have designed the interface for Forest who in fact bought one slave unit for run-off and test purposes of each machine before despatch.

As you will appreciate this sort of detailed information is very difficult to get, and is offered to you in good faith. I have no doubts regarding our sources, and in fact the size of the order and the type of control has been cross-checked.

/continued.....

It is clear that if the French, or anyone else, are able to take advantage of this sort of manoeuvre then our chances of competing with them based on the restrictions contained in the Comodity Control List are negligible.

We also learned in Moscow that as a result of several U.S. companies being refused export licences for 3-axis machines, enquiries for our own machining centres have been choked off. All this despite the fact that a letter of intent, coupled with Soviet declaration of end users factory, location and product type as well as invitation to the U.S. Department of Commerce inspectors were offered by Stankoimport.

I have discussed this matter with Tom Niles, Director of the U.S. Commercial Office in Moscow and given him this same information.

What is important for all of us as an industry is that it should be seen that licences can be granted in certain specific cases for non-strategic users. Unless this is done it will be inevitable that enquiries for U.S. Machining Centres will be choked off.

Yours sincerely,

A. BARCLAY
EXPORT DIRECTOR

Copies to:
Mr.A. N. Hallewell - Export Director B & S
Mr. L. H. Fort - Product Director B & S
Mr. L. B. Arnold

JAN 19 1976

January 9, 1976

Mr. Ronald C. Miskell
Numerical Control Engineering Dept.
Y-12 Plant
Union Carbide Corporation
Nuclear Division
P. O. Box Y
Oak Ridge, Tennessee 37830

Dear Ron:

Once again some information has come into my hands which I feel should be brought to the attention of the Technical Advisory Committee. We have had an applicant reply to one of our ads for a position in Engineering. You will note from the attached resume that this applicant is a Russian emigrant who had worked on N/C in Russia.

Note in his letter of December 12 that he had been working on a 5-axis machining center using a Siemens Sinumerik 540/65 N/C system for five axes of control. In addition he points out they were using inductosins on all five motions. There are two significant points in that one sentence. First, Siemens is apparently shipping 5-axis controls into Russia. Second, the Russians do have 5-axis machining centers.

Also you should note in his resume that he was working on adaptive controls for boring. We interviewed him by telephone on December 22 and in that telephone conversation Mr. Khersonsky verified that the 5-axis machines were 5-axis simultaneous contouring. He also stated that he had been working on CNC controls in Russia using both micro processors and mini computers. His task when he left was the development of a new CNC control with a mini computer.

Ron, I would appreciate your incorporating this information into the work of the Committee. Please let me know if you need any further information.

Sincerely,

L. B. Musser

LBM/bay
cc: DZielinski
ELoeffler
attach.

Mr. Yuri Khersonsky
1323 B Denison Drive
Springfield,Ill.62704

December 12, 1975

Mr. Thomas M. Trecker
Manager Labor Relations
KERNEY & TRECKER CORPORATION
11000 Theodore Trecker Way
Milwaukee, WI. 53214

Dear Mr. Trecker:

I am writing this letter after your conversation with President of Springfield Jewish Federation. I beg pardons for my absent and hope that I'll be able to show my knowledge in English; when we will meet personaly.

I thank you for your interest to my seeking for a job. Fulfilling your request I send all publications what I could take with me from the USSR. Infortunetely, I can't give example of my designing because Russian Goverment don't permit to take any technical document. I try to explain my the most significant designing works.

I made design and putting into operation of Electrical Equipment for Radial Drilling Machines with 2 and 3 axes point-to-point Numerical Control.This models were maden on base of Radial Drilling Machine with 2 coordinate table (similar as "Asquith", "Kolb" or "Carlton"), and have code transducers and induction motors on all axes. For this machines I elaborated the Thyristor Control Induction Drive with low speed for accurate stop of table and new device for braking of spindle motor.

I made design and setting up of complete Electrical Equipment for new Machine Center for precision metalworking. It has two live spindles - first for drilling and milling with automatic tooling changer and second for fine-boring with Numerical Control of boring diametr. This Machine Center has 5 axes "Sinumerik 540/65", inductosins on all axes and SCR drives. For it there was elaborated new SCR drive with DC motor for spindles.

I also worked out technical assignments for new types of NC systems, transducers and SCR drives for prospective design of NC Machines and examined their.

I must apologize to you for picture in one my book and ask to return it me as far as I have only one copy of this book.

Thank you for your attention.

Sincerely yours,

Yuri Khersonsky

Yuri Khersonsky

Yuri [illegible]ky
1323 D[illegible], Apt. 3.
Spring[illegible]d, Illinois 627[illegible]
Phone 789-6095

Age: 36
Married, two children
Languages: English, Russian
Birthplace: Odessa, U.S.S.R.

I. EDUCATION

1950-1955 Secondary school N43 Odessa, U.S.S.R., diploma
1956-1961 Undergraduate and graduate studies in Polytechnical Institute, Electrical Dept., Odessa, U.S.S.R., diploma in Electromechanical Engineering (equivalent to M.S. in Electrical Engineering in U.S.)
1965-1968 Postgraduate studies in Experimental Research Institute of Metal Cutting Machines (ENIMS), Moscow, U.S.S.R., diploma as Candidate of Technical Sciences (Equivalent to PhD. in U.S.A.)

II. PROFESSIONAL EXPERIENCE

1969-1975 Chief designer of numerical control dept. in special designing office of diamond boring and radial drilling machines (SKBARS), Odessa, U.S.S.R. Lead group in the design and research of electrical equipment for numerical control drilling and boring machines (NC systems, SCR drives, program controllers, etc.) Designed, fitted and tested radial drilling machines with 2 or 3 axes N.C., and machine center with 5 axes NC for precision boring. Research was in developing new types of SCR drives with D.C. motors for positioning and for changing spindle velocity without gear box. Elaborated upon SCR device for braking of induction motors with automatic stop switching without timer. Began work on an adaptive control for precision boring.

1966-1969 Postgraduate, Senior Research Staff in Experimental Research Institute of Metal Cutting Machines, Moscow and Yerevan, U.S.S.R. Elaborated and tested an impulse control device with thyristor (SCR) in zero point of status winding of induction motors. This device guaranteed low speed for accuracy stop of machine table with N.C. Improved a system of thyristor devices for quiet starting, control braking and low speed of induction motors.

1963-1966 Senior Engineer-Researcher in Ukraine Research Institute of Machine Tools and Instruments, Odessa, U.S.S.R. Carried-out research, working and testing electro-heaters with automatic regulator for plastics foundry and extrussion press; induction transdusers for coordination-monitoring machines and for machine tools with adaptive control of cutting force. Began working on the problem of SCR control of electrodrives for machine tools with N.C.

1961-1963 Designer in Special Designing Office N3 (SKB-3), Ministry of Machine Tools Industry, Odessa, U.S.S.R. Participated in the setting-up and the industrial testing of Numerical Control Coordinate Drilling (the first in the U.S.S.R.) and then carried on designing work with the principal purpose being assembling projects of electrical equipment for drilling and boring machines.

III. ADVISORY POSTS

President, State Commission of Entrance Examination for Numerical Control Drilling Machines and NC Systems
Member, Scientific Advice of Numerical and Adaptive Control for Tool Machines in ENIMS

IV. PUBLICATIONS

15 published articles in scientific magazines and transactions, four inventions, and two books. The most significant works are:

1. "Datas Selection of Positioning Systems with Probable Influences" Transactions of ENIMS Graduates, Moscow, ENIMS Press, 1960
2. "On Optimisation of the Electrical Drive for the Positioning Mechanisms in Cutting Machines" Electricity, 1968, N9
3. "Thyristor Control of Induction Motors" Moscow Informelectro, 1969
4. "Analysis and Design of Optimal Positioning Electrodrives" Moscow, Energy, 1971
5. "Automatisation of Positioning Electrodrives" Moscow, Energy, 1970
6. "Complete Thyristor Devices for Control of Induction Motors" Moscow, Energy, 1971
7. "Thyristor Devices for Control of Induction Motors in Machines", Transactions of The Sixth Union Conference of Automatic Electodrives, Moscow, Energy, 1974

MOORE SPECIAL TOOL CO. INC
Toolmakers
MOORE TOOLS
JIG BORERS · JIG GRINDERS
MEASURING MACHINES
P O BOX 4088
800 UNION AVE. BRIDGEPORT, CONN 06607
TEL NO AREA CODE 203 · 366-3224
CABLE MORSPEC BPT
TELEX 964310

16th October 1975

Mr. Ron Miskell
Union Carbide Corporation
P.O. Box No. 4
Oak Ridge, TN 37830

Dear Ron:

Enclosed is a copy of a letter I recently received from our Distributor in Sweden. Its contents are self explanatory.

Svenska Datalregister is a Division of the LITTON conglomerate - located in Sweden. They have recently set up a factory in the Soviet Union to produce cash registers, calculators, small business machines, etc.

Our firm was fortunate enough to be selected to supply basic Tool Room Jig Grinders for their Tool & Diemaking needs.

I have underlined in red - significant comments that most certainly would be of interest to our T. A. C. Committee. Pertinent points described are:

- "Electronic Controls for Machine Tools is nothing new to them" .. (Russians)
- "They have in operation for several years a number of Numerically-Controlled Machine Tools of Soviet design - as well as West-European origin".
- "They have fully competent Maintenance Engineers for electronics" ... etc., etc.

I trust you will find this information useful.

Sincerely yours,

Richard W. Kuba
Director of World Sales

RWK:ez
encl.
cc: NMTBA
Mr. E. Loeffler

Litton SVENSKA DATAREGISTER

Box 1200, S-171 23 Solna 1, Sweden

Dear Sirs,

Service instructions for electronics

You have recently, on our account, delivered to the cash register manufacturing plant Zavod CAM in Ryazan in the Soviet Union certain machine tools according to enclosed list. For those machines our customer in Soviet asserts that the documentation he has received is insufficient to make him capable to do the necessary maintenance work and repairs on the electronic control systems.

We have studied and discussed this problem on-site in Ryazan. The Zavod CAM factory manufactures cash registers, calculating machines and computers with 7,000 employees. Electronic control equipment for machine tools is nothing new to them. They have in operation since several years a number of numerically controlled machine tools, as well of Soviet as of West-European origin. They have fully competent maintenance engineers for electronics. But to find out which component in a control box is gone, even the best electronic engineer needs certain service instructions, like specifications about voltages, frequencies, signal relationships etc. at certain checkpoints.

We must here take into consideration that the Russians work under much more difficult circumstances than we do in West-Europe. Due to certain facts which the company Zavod CAM has no control over, they are prevented from calling for the machine manufacturer's service engineer as soon as a malfunction occurs in a machine. Their own service engineers have to be able to eliminate all kinds of errors in all machines. Even the spare parts supply is very troublesome. When the warranty period is finished, Zavod CAM can not count on spare parts supply from West. Mechanical components which break will be repaired or copied and manufactured on-site or exchanged by corresponding Soviet ones. Regarding electronics the same will be done, except for that in an electronic component it is often impossible to find out - after it was blown - what characteristic data it had before it blew. For simple electronic components like transistors, it is often possible to find a replacement of Soviet make, provided they have information about the make and type of the blown component.

Cont....

Litton

As the marking on the component itself is sometimes destroyed when it has been overheated and burned, the identification should preferably also be available in the wiring diagram or in a list of components connected thereto.

More complex electronic components like logic blocks, integrated counters, operation amplifiers etc. will give considerably greater problems. Even there, although the Russians can do very much by using their own equivalences for replacement or by manufacturing the needed circuit tailor-made on-site. But to be able to do that it is necessary to have information about the intended function of the block, its voltages, currencies, frequencies, loadings, signal relationships etc. If the logic block is a standard item, it is usually enough to have the data given in the component manufacturer's catalogue.

Our delivery to Zavod CAM consists of about 500 machines. Among them are about 90 different types of machines where the electronic control is complicated enough to cause the problems described above. I think you must understand that we need your help to get the plant over there to function. Regarding the electronics delivered by you, we need to get from you all the service manuals which your own service engineers are using. We think they should contain

- trouble-shooting instructions
- trimming instructions
- detailed wiring diagrams
- component lists
- characteristic data for logic blocks etc.
- spare parts catalogue

The language of that documentation should preferably be English or German, but even other languages are better than nothing.

We trust in your understanding and readiness to assist us in this troublesome situation. If something is unclear or you have problems to release the documentation, we ask you to contact our Mr. Carl Fagerlund or Mr. Olof Klingberg.

Yours faithfully,

SVENSKA DATAREGISTER AB
Ryazan Project Administration

Carl Fagerlund

Encl. Extract from list of machines at Zavod CAM requiring completion of service instructions for the electronic controls.

Bilaga

SVENSKA FÄRGREGISTER AB
Projekt Ryazan

Utdrag ur förteckning över utrustning levererad till Ryazan, Sovjetunionen, för vilken utförligare serviceinstruktioner erfordras för elektroniken

Jiggslipmaskin Moore G18(nr 3) P0 1391-825 16:1:19

MAY 2 7 1975

KEARNEY & TRECKER CORPORATION
11000 THEODORE TRECKER WAY • MILWAUKEE, WI U.S.A. 53214
414-476-8300 • Telex 026-663 • Cable Treckermil

May 23, 1975

Rauer H. Meyer, Director
Office of Export Control
Bureau of East-West Trade
U.S. Department of Commerce
Washington, D.C. 20230

Subject: Machine Tool Embargo covering the Eastern Bloc Countries.

Dear Mr. Meyer:

C Over the past few years, Kearney & Trecker, as an individual company, and the National Machine Tool Builders' Association, as an association, have been in touch with you about the CoCom
O embargo on certain N/C machines and controls.

You may remember that Kearney & Trecker had an order from the
P U.S.S.R. for seven old MILWAUKEE-MATIC Model III-5-axis machines equipped with the old Bendix 1600 control. It was not possible for Kearney & Trecker to get an export license so we could fill
Y this $5 million order.

We took individual action at that time, and had excellent cooperation from your people in the U.S. Department of Commerce, who also set up the visits with the Pentagon for Mr. J.R. Joerger, our Vice President-International Sales. He met with Dr. M.J. Mountain a number of times on the subject.

Since that time, NMTBA has set up a committee to coordinate information and activity on this subject, and Kearney & Trecker was represented by Mr. Lee Musser. This committee is now over two years old and the original members, having served their two-year tenure, have now been replaced. It is intended that I will now represent Kearney & Trecker on this committee for the next two years and will work within its framework.

We have been made aware of some information which we think should be brought to you directly, and which we have also brought to the attention of NMTBA. Mr. Joerger came across some information indicating that Kongsberg, an N/C builder of Norway, had sold 23 5-axis computerized numerical controls to GSP in France (this information was published in a Kongsberg monthly newsletter, see attached). At the outset, Kearney & Trecker did not know to what country these controls would be destined and, therefore, contacted our agent in France, Forges de Vulcain. Forges de Vulcain passed on the following information to us yesterday:

"GSP (Guillemin, Sergent et Pegard) has sold 23 machining centers, Model 3-B, to Stankoimport (U.S.S.R.) fitted with Kongsberg CNC. Delivery is to start at the end of 1975. This is the first batch of 90 N/C machines which will be delivered to the U.S.S.R. by GSP before 1979.

Alcatel (French N/C builder) has sold 50 N/C controls to the U.S.S.R." K&T's contact ended the telex with this statement ... "please hold this information as confidential."

Please try to honor the confidentiality of our sources, but you can violate them, if necessary.

Mr. Joerger passed this information on to Dr. Mountain this morning, and Dr. Mountain indicated he would bring this information to your attention verbally and would also contact Bob Wright, of the State Department.

We realize that the U.S.A. does not wish to instigate a violation of the CoCom embargo, however, Kearney & Trecker cannot sit back and watch other countries fulfill orders to the Eastern Bloc countries on a product that was developed in the U.S. and, in the case of machining centers, by Kearney & Trecker.

During recent visits to the U.S.S.R., Kearney & Trecker has been promised an order larger than any we have received in the past, if we would supply Stankoimport with Kearney & Trecker machining centers. Stankoimport did not necessarily ask for four or five axis machining centers. The machining centers, however, that Kearney & Trecker produces today mainly are operated by the KTCNC (Kearney & Trecker Computerized Numerical Control) and the CoCom embargo definitely restrains us from shipping CNC controls.

If we encounter any further information on this subject, we will take the liberty of passing it on to you. If we can be of help to you, we will come to your office at your convenience.

Very truly yours,

KEARNEY & TRECKER CORPORATION

John P. Bunce,
Vice President

CC: Dr. M.J. Mountain

Mr. BINGHAM. Can I take it from the fact that you are not stressing this matter in your testimony today that this really isn't a priority concern because, frankly, it is a very difficult problem to address, particularly from a legislative point of view?

Mr. MCCLOSKEY. Well, I will see if I can get some specific documentation on that, but I think the general consensus of our industries is that it is still a problem. And we will try to document it to the extent that we can.[1]

Mr. BINGHAM. Thank you.

EXPLANATION OF LICENSE DENIAL

Now, a number of the complaints, or suggestions, that you have made with regard to the export licensing process seems to focus on a feeling that so much of the process is closed to you. You don't know why your licenses are turned down. The technical advisory committees aren't told why their recommendations aren't accepted.

On the other hand, the process is closed to us, Members of Congress, also. The administration, in response to our requests for information, stresses that section 7(c) is supposed to be for the benefit of industry—to protect trade secrets and so on.

CONGRESSIONAL OVERSIGHT

Now, to a certain extent, it seems to me, these positions are inconsistent, and what I would like to know is this: Would you gentlemen support an amendment to section 7(c) which would require the administration to furnish the Congress any information about the operation of the act that is requested so that we can really have the oversight that you want us to have?

Mr. CHRISTIANSEN. I am not too familiar with section 7(c), so I will have to plead ignorance on that point, but I think the Congress ought to have the information it needs to examine the act and its administration.

How can you conduct an oversight function without receiving information?

On the other hand, I am also aware of the fact, as I mentioned in that part of my statement, concerning boycott situations of the difficulties that could be encountered by firms who submit reports, perhaps even in error, and then receive adverse publicity. Much of this concern holds true with East-West trade licensing. Certain firms might be placed in very adverse positions if certain information were released. Still if the information was solely for the use of the committee, I think a certain amount of disclosure would be an excellent idea.

Mr. BINGHAM. In terms of the matter of oversight, I personally agree with your recommendation that we should authorize the extension of the act for a year—by year—and I think that would give us better control of the situation because many of the problems that you refer to, I think, are very difficult to reach from a legislative point of view, and I think they can be reached primarily by the Congress holding the administration's feet to the fire.

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[1] See letter from Mr. Peter McCloskey on p. 373.

EXPORT LICENSE DELAYS

I wanted to ask you specifically, in connection with page 5 of your testimony, Mr. McCloskey, what statutory language do you have in mind with regard to the licensing delays? That is page 5, line 8 of your statement.

You were rather negative on the chairman's suggestion that there might be a fixed time limit. If that is not the case, then, what kind of statutory improvement do you have in mind?

Mr. McCLOSKEY. Well, I didn't mean to be negative, only on the issue of shortening it to 45 days. I felt the 90-day deadline that is in the present act is appropriate, and we thought that that provision should be strengthened by having the administration require to provide reports to the Congress on their progress in meeting that 90-day objective.

Mr. BINGHAM. That is a fairly weak provision.

I take it, Mr. Christiansen, from what you said, that you would be in favor of a 90-day requirement, is that correct?

Mr. CHRISTIANSEN. We already have a 90-day requirement. The only thing is that there is a loophole that says if the Government can't reach a decision in 90 days they get back to the applicant and tell him: (*a*), they can't make it, (*b*), why, and, (*c*), when they expect to make a licensing decision.

Mr. BINGHAM. I understood you to recommend that those exceptions be eliminated?

Mr. CHRISTIANSEN. No, no; I certainly did not mean to give that impression.

I can see situations where 90 days would not be adequate. This should be a small minority of cases, however, and not the large amount that it currently is.

I think that there should be an escape clause. The important thing, however, is to make sure that the Congress and the public is aware of what progress is being made. This is why we support the suggested amendment Mr. McCloskey has read requiring that this information be published in the annual reports, or semiannual reports.

Now, if, in the course of 2 or 3 years, or whenever the next oversight hearings come up, this hasn't done the job of shortening time delays, something stronger should be tried.

Mr. BINGHAM. In other words, Mr. McCloskey, the last sentence of that paragraph is, in fact, what you have in mind when you refer to statutory language?

Mr. McCLOSKEY. Yes; the quote in (*c*).

PROBABLE MILITARY CAPABILITY

Mr. BINGHAM. Also, on page 5, at the top of the page, you suggest that the words "in all probability" be used with regard to increasing the military capability of the recipient country. That is a pretty tough thing to prove. But you feel that the Defense Department ought to be in a position, in fact, to establish that if they are going to recommend against a license?

Mr. McCLOSKEY. I think there ought to be more likelihood that the export would lead to increasing the military capability of the receiving country.

I think you could figure out and posit scenarios that would take almost any export and say that that offered some contribution, even in selling wheat, that allows them to put something into something else. You can make that very tenuous if you wanted to.

I think it should be more specifically connected with the likelihood that it may result.

DOD REPORT ON HIGH-TECHNOLOGY EXPORTS

Mr. BINGHAM. Now, with regard to your comments on the defense science board task force on technology transfer, is the point that you make in that paragraph on pages 7 and 8—Is that the principal point that you have in mind in terms of reservations on that report, or do you have other points in mind?

Mr. MCCLOSKEY. The ones mentioned there were the principal ones I had in mind. I don't know whether anyone else that is with me today would like to comment specifically on that. I don't think so at this time.

But, as Mr. Christiansen mentioned, there is work being done to analyze that report in detail and our concern is that it does, in fact, mold the other interests into it, and that it not be looked at in a vacuum.

Mr. BINGHAM. Incidentally, I don't know whether you are aware of the fact that in his testimony the other day, Deputy Defense Secretary Clements indicated they, too, were reviewing the recommendations of the task force. Originally they intended to give us their recommendations in September. We have persuaded them they had better move faster than that if they want any consideration.

Mr. MCCLOSKEY. I saw that.

Mr. BINGHAM. I think that is all.

Chairman MORGAN. Mr. Whalen.

Mr. WHALEN. Thank you, Mr. Chairman.

EXTENSION OF THE ACT

Mr. Christiansen, I would like to clarify for my own thinking the exact position of the U.S. Chamber of Commerce.

We have before us a bill introduced by the chairman, which is a straight extension of the present act. Do I understand that this is the view of the chamber that the act should be extended without further amendments?

Mr. CHRISTIANSEN. No, sir, perhaps I wasn't too clear on this point in my testimony.

Mr. WHALEN. You did express concerns and make some recommendations without specifically applying them, as I read your testimony, to the bill.

SENATE BILL 3048

Mr. CHRISTIANSEN. The statement indicates, of course, support for the extension, pure extension. It also indicates there are some modifications that should be made. Many of these parallel the recommendations of the Senate Banking Committee in title I of S. 3084.

Mr. WHALEN. We might be specific on that.

Mr. McCloskey, speaking in behalf of his group, urged that we adopt title I of the Senate bill with some further modifications. Does the chamber take that same position? Does your organization support title I?

Mr. CHRISTIANSEN. From what I have heard of Mr. McCloskey's testimony and what I know of the chamber's position, I don't think there is any inconsistency. I think there is clear support for title I of the Senate bill with modifications of the type that have been suggested today.

Mr. WHALEN. I see.

UNANIMITY RULE

Mr. McCloskey, just a couple of questions with respect to your testimony.

Now, on page 6, you agree with the GAO report that the unanimity rule currently practiced by the Operating Committee should be eliminated?

I wonder, does the Commerce Department acknowledge that the Operating Committee does have decisionmaking authority, or do they acknowledge the existence of such a rule?

Mr. MCCLOSKEY. Well, I think it is a little confusing. I think the GAO report indicates that it exists, and I think Secretary Richardson's testimony, in fact, supported the fact that it did, when he said they couldn't operate on a majority rule.

On the other hand, he said that the final authority was with him.

But I think what happens in practice is that, in effect, it is unanimous rule and recommendations don't get to his desk until it is in that mode.

Mr. WHALEN. So perhaps there should be some clarification there by the Congress.

UNILATERAL U.S. EXPORT CONTROLS

On page 7, Mr. McCloskey, you recommend that unilateral export controls over and above the COCOM list be eliminated. What concerns me and my colleagues is how can we be confident that the exports available from our COCOM trading partners are, in fact, the same as U.S. products and such recommendation is danger free.

Mr. MCCLOSKEY. Well, I think the safest way would be to insure that a product gets into the COCOM list as well, that it not be one list for the United States and another list that is not as stringent for our normal trading partners. That is apparently the case today.

So, I think care has to be taken as to what we suggest goes into that initial list. But it seems we really are at a competitive disadvantage if COCOM would allow it but we do not and, in fact, there is technology available from our allies. If that isn't the case, obviously, it isn't as bad a situation, but I think it is the case today that we do have items on our commodity control list that are stricter than the COCOM list.

ACCESS TO COCOM LIST

Mr. LOEFFLER. To follow through a little bit on that particular thought, in the release of the recent COCOM list, the British Board of Traded Journal, dated April 30, had a rather complete listing from the COCOM. Our own documents, the commodity control list and its interpretations, appeared about a month later.

As a matter of fact, we still haven't received our copies through the mail. We went to Commerce to pick them up. And there were serious omissions in the commodity control list and its accompanying inter-

pretations in that some of the explanatory notes in the COCOM document were not in our own documents. So we are not sure yet what we can ship from here.

The Europeans, especially the British, are very sure. As a matter of fact, on the subject of unilateral controls, the COCOM regulations do have what is termed administrative notes which grant to each member country the privilege of issuing licenses without referring back to COCOM for certain materials.

These are spelled out in the British publication very well. They say that items which are italicized in the text will be, in most cases, granted licenses. However, there is no recognition whatsoever in our own commodity control list that certain products may be granted licenses directly by our Government without going to COCOM.

Once again we are at a disadvantage in respect to our foreign competitors of what can and cannot be shipped from particular countries.

STORAGE OF AGRICULTURAL EXPORTS IN THE UNITED STATES

Mr. WHALEN. Mr. Christiansen, you referred in your testimony to the overuse of the short-supply provisions and alluded specifically to the soybean embargo of 1973. Congressman Winn will be unable to return to our hearing this morning and asked that I inquire of you as to what the chamber's position is with respect to the Senate provisions regarding the storage of agricultural exports in the United States.

Mr. CHRISTIANSEN. I am not an agriculturalist, sir, but I understand, from my colleague here, that the chamber supports the thrust of these provisions.

Mr. WHALEN. Thank you, Mr. Chairman.

Chairman MORGAN. Mrs. Meyner.

Mrs. MEYNER. Thank you, Mr. Chairman.

EXPORT LICENSE DELAYS

Mr. McCloskey, you seem to be very concerned about delays in the granting of export licenses and you propose a new, full-time, interdepartmental operating committee to provide advice and consultation to the Department of Commerce.

Wouldn't such a committee just increase bureaucratic delays?

Mr. MCCLOSKEY. Well, such a committee now exists, but the problem with the committee is that it is ad hoc in nature, fragmented, and it doesn't have the normal staff supporting it. So what happens is we have the bureaucratic delays, if you will, because of the scheduling problems, because of whatever. It is not their full-time job. They wear many hats.

Mrs. MEYNER. You feel that if it was full time it would expedite matters?

Mr. MCCLOSKEY. I think the volume of the work certainly deserves full-time attention. And the way it is currently organized, where their efforts are split between various functions, in good faith they may cause many, many problems that wouldn't necessarily have to be if their full-time job was the licensing procedure.

Mrs. MEYNER. Along these same lines, do you believe that decisions concerning export controls of high-technology items can be made in less than 90 days?

Mr. McCLOSKEY. Well, certainly where there is a track record on a particular item they can profit by the use of the previous file so it isn't an open and shut kind of thing. But there are instances where the same type of hardware, or the same equipment, perhaps, have encountered the whole processing being done again.

Now, perhaps the end users were different, but it seems the technical questions had been resolved.

UNILATERAL U.S. EXPORT CONTROLS

Mrs. MEYNER. Mr. McCloskey, you recommended that this committee should consider eliminating unilateral U.S. export controls which are not included in the COCOM list. Can you give me some examples of such U.S. unilateral controls; what have been their effects in terms of U.S. security and the loss of possible business by American firms?

Mr. McCLOSKEY. Well, I think one of them, the one I mentioned earlier, is the question of safeguards.

Mrs. MEYNER. You may have answered a question like this when we went to answer that rollcall, so I apologize.

Mr. McCLOSKEY. The safeguard question is one in which our country has much more stringent controls than our COCOM partners do. We require unusual efforts on the part of people to report such things as the use the equipment is currently being used for and make inspections, and there is quite a bit of concern about whether or not employees of commercial enterprises that are not Government employees are, in fact, acting in capacities beyond that which they should be asked to do, whether or not there are exposures for those personnel in the event that equipment were being used improperly, whether they are, in fact, agents of our Government, or whatever.

Mr. Donaghue of Control Data Corp. would also like to add to that.

Mrs. MEYNER. Thank you.

STATEMENT OF HUGH DONAGHUE, CONTROL DATA CORP.

Mr. DONAGHUE. I would like to give you one type of example that comes up with these safeguards. For the smallest of the computer systems that we sell to Eastern Europe the U.S.S.R., and the People's Republic of China, we are required to visit each installation and file a site report and on a monthly basis for 3 years, and, then, on a quarterly basis for 3 more years.

In my dealings with some of our COCOM partners around the world, I have questioned them about the feasibility of this particular safeguard condition which we, here, in the United States follow very, very faithfully, and I got this type of comment:

Well, when you look at monthly reporting, you must look at the weighted average, and the weighted average says you have to report something like 12 times a year. So that reporting can occur at the end of 1 month, and then you are still around to visit that site at the beginning of the next month. Well, that covers two reports. Then, you do not necessarily have to really do all that either because weighted average says it ought to be around 12. Maybe that is 16; maybe it is 8 or 10.

Now, an American firm has to undertake, and diligently does when it signs an agreement, to make those visitations—and it reports back to the U.S. Government, filling out reports and answering certain questions, and our Government knows what he has done. We must rely on the other COCOM countries, on the other hand, to report to COCOM, "Yes; we are complying," but other COCOM governments' relationships with their firms may be completely different from ours.

We have to take into account the economic cost of this—you can imagine the expense of sending someone to Peking with a set of conditions as I have been trying to negotiate with the Chinese, or sending someone to Peking on a monthly basis, whereas our foreign competition, if they use the weighted average, may be able to comply with their government's regulations. It is this type of thing, we face.

Mrs. MEYNER. Thank you. That sounds like a very reasonable answer.

Thank you, Mr. Chairman.

Chairman MORGAN. Gentlemen, I have one further question.

TECHNICAL ADVISORY COMMITTEES

The technical advisory committees are composed, I believe, solely of representatives of industry. Does either one of you gentlemen think it would be useful to expand the membership beyond industry, say, to scientists, engineers, not employed in industry?

Mr. CHRISTIANSEN. The structure of the technical advisory committees at this time is predominantly people in industry, but there are also Government people who are selected to serve on these various panels. I think they can also appoint scientific people; I don't think there is any prohibition about this.

The last time around, in 1974, the regulation was altered to make it mandatory to have Government participation from more than just the Commerce Department. This has been done and it has made the committees more useful.

The problem is basically one of making sure that the recommendations of these committees are solicited, taken seriously, and there is feedback. I think these are the bulk of the problems I hear from the industry participants.

Mr. MCCLOSKEY. In addition, although members often are representatives of industry, they are there very much in an individual capacity, and, in fact, because of the security requirements, they are precluded from making even their own management fully informed of what is going on in those committees. They have to deal with such things as hypothetical situations. They are on that committee in an individual capacity. They really aren't representing their company, although they were originally nominated probably because their company asked that their name be submitted.

But once there they really don't represent their company, they represent industry as much as they can from their own individual viewpoint.

Chairman MORGAN. Thank you, gentlemen.

The committee stands adjourned until tomorrow morning.

[Whereupon, the committee adjourned, to reconvene at 10 a.m., Wednesday, June 16, 1976.]

EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

WEDNESDAY, JUNE 16, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C.

The committee met at 10:25 a.m. in room 2172, Rayburn House Office Building, Hon. Donald M. Fraser, presiding.

Mr. FRASER. The committee will come to order.

The committee is lacking in attendance this morning in part because a conference committee on the military assistance bill is still in progress.

The House committee today holds its 6th day of hearings on the Export Administration Act and the subject scheduled for this morning is nuclear exports.

The committee will hear in due course one of the Nation's experts on nuclear proliferation, Albert Wohlstetter, professor at the University of Chicago and a defense nuclear analyst. Professor Wohlstetter is a consultant to the Director of the Arms Control and Disarmament Agency and has served as a consultant to the Secretary of Defense and other governmental agencies.

Before hearing from Professor Wohlstetter the committee is honored to have one of our distinguished colleagues from New York, Elizabeth Holtzman, who will present testimony on the problem of the Arab boycott.

Ms. Holtzman.

STATEMENT OF HON. ELIZABETH HOLTZMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Ms. HOLTZMAN. Mr. Chairman, I want to thank you and the members of the committee for giving me the opportunity to testify before you on the very important subject of the Arab boycott.

I will save the committee's time and be delighted to summarize my statement, if it is the chairman's wish.

Mr. FRASER. That would be fine.

IMPACT OF THE BOYCOTT

Ms. HOLTZMAN. Let me state first that the facts presently show that the Arab boycott has substantially interfered with the conduct of American businesses in the United States. For example, the latest figures released by the Commerce Department indicate that out of

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approximately 4,000 requests to comply with the boycott, there were only 288 instances in which firms reported a refusal to comply.

The percentages shown in the latest figures have been pretty consistent with past history in this area.

IMPLEMENTATION OF THE BOYCOTT

Basically the Arab boycott works as follows: Shippers must certify that the ships that are being used are not Israeli in origin or Israeli owned, and that they will not stop at Israeli ports. Before American banks can pay American exporters who export to Arab countries, the banks have to have a certification from the exporter stating that the company which produced the commodity supplied was not affiliated with any company on the blacklist and that the supplier or exporter had no direct or indirect connection with Israel. American banks are thus indirectly made tools of enforcement of the Arab boycott.

In addition, an Arab company, which is a leader or comanager of an investment venture cannot contract with a blacklisted investor. Thus we may recall that the Kuwait International Investment Co. withdrew from two lending syndicates when its comanager, Merrill, Lynch, Pierce, Fenner, and Smith, refused to drop Lazard Freres as an underwriter.

Mr. Chairman, the interference with American business does not stop solely with the companies with which American businesses trade; it reaches to the people that they employ.

There have been instances in which employees have claimed that they were either not hired or fired as a result of the desire of an American company to do business with the Arab countries.

The situation, Mr. Chairman, is not likely to get better but instead is likely to get worse.

IMPORTANCE OF MIDDLE EAST MARKET

It is estimated that, by 1980, OPEC nations are likely to have accumulated half a trillion dollars in investment capital. Half a trillion dollars, if I may remind the members of this committee, is approximately equal to the value of all the companies listed on the New York Stock Exchange.

It is going to be increasingly difficult for any American company to resist the temptation of getting a piece of that action.

FREEDOM OF FOREIGN COMMERCE

I would say, Mr. Chairman, that the Congress has an obligation to act in these circumstances. Congress has an obligation, under its constitutional power to regulate foreign commerce to protect the American business that wishes to do business in accordance with our country's own laws. I think freedom of foreign commerce is directly at stake here, and not only the freedom of foreign commerce, but the freedom of commerce within the United States. The fact is that American companies should not be hindered by outside foreign pres-

sures from doing business with other American companies in the United States.

Congress also has an obligation to act to protect our citizens against discrimination. Discrimination on the basis of religion is the issue at this time, but the powers that dictate this kind of religious discrimination now could dictate discrimination on the basis of race or other criteria in the future.

STATE ANTIBOYCOTT LAWS

I think it is urgent also, Mr. Chairman, for Congress to act in order to protect those States that have taken initiatives to protect their own citizens against the Arab boycott. At this time Maryland, Illinois, and New York have all enacted statutes which protect their citizens against discrimination caused by the Arab boycott. It has been suggested that, as a result of these statutes, these States have lost business. That claim has been made specifically with respect to the port of New York.

I think, Mr. Chairman, it would be unfortunate for the Congress to permit States who have taken action to protect their own citizens from discrimination to suffer economically as a result. In this circumstance only Congress has the power to act—and Congress has the obligation to act, in my judgment—to protect American business and to protect American citizens from invidious discrimination dictated by foreign countries.

I would add, too, that unless Congress acts now the situation is likely to get much worse in the future.

[The prepared statement of Hon. Elizabeth Holtzman follows:]

PREPARED STATEMENT OF HON. ELIZABETH HOLTZMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

I am very pleased to have the opportunity to testify before this distinguished Committee on the important matter of protecting Americans from the Arab boycott. I am glad that this Committee is considering amendments to the Export Administration Act that will address the discriminatory effects of foreign-inspired boycotts.

For most of our 200 year history, the United States has not been subject to the economic pressure of other nations. Recently, however, the staggering oil wealth of the Arab countries has radically altered this situation. In both 1974 and 1975, the income of the OPEC countries exceeded $100 billion. Their surplus in balance of payments for 1975 has been estimated at $29 billion. It is estimated that by 1980, their investment capital will exceed one-half trillion dollars—an amount equal to the value of all companies on the New York Stock Exchange. Few companies are likely to resist the temptation to share in this wealth.

With these billions, Arab nations now often dictate American business practices. They tell American companies not only what foreign countries they can trade with, but it is claimed that they also tell our companies what Americans they can employ or have on their Boards of Directors. It has been charged that several New York architectural firms have discharged Jewish employees in order to secure Arab business. A shipping company recently settled with two Jewish applicants who charged the company with refusing to hire them for engineering positions in Arab countries on account of their religions.

Last summer, in testimony before the House Judiciary Committee in support of my own bill on this subject, I outlined in detail problems created by the Arab boycott. Rather than repeat the points I made then, I hope you will permit me to refer you to that testimony which is attached.

It is intolerable to permit foreign interference in American business relationships and employment practices. It is crucial that the United States Congress act, under its constitutional power and obligation to regulate foreign commerce, in order to protect American businesses.

The proposed amendments to the Export Administration Act, pending before this Committee, will protect Americans from some of the effects of the Arab boycott. The Act now states that the policy of the United States is to oppose foreign boycotts against countries that are friendly to the United States and to encourage United States firms not to participate in boycott activities against these friendly nations.

But this non-mandatory "policy statement" and the accompanying Commerce Department regulations have not significantly deterred participation by United States firms in the Arab boycott. Instead, we have watched the boycott of Israel expand into a powerful secondary boycott. Now American companies are subject to the boycott if they trade with blacklisted firms, and, it is rumored, if they employ persons who support Israel (i.e. Jews).

The Export Administration Act also requires American firms to report any request by a foreign country to supply information or sign agreements relating to the boycott of a country that is friendly to the United States. This requirement does not seem to have been taken very seriously. While the Commerce Department estimated that between 1970 and 1975, 30,000 United States firms had either done business abroad or expressed an interest in doing so, no more than 60 firms reported discrimination requests during that period. Moreover, the reports forwarded to the Commerce Department, indicate widespread compliance with the boycott. From January 1974 through October 1975, of the 54 percent of companies that reported on their compliance, only 2 percent reported they had refused boycott requests. Forty-six percent of the firms reporting boycott requests did not even provide information on whether or not they had complied.

In the last quarter of 1975, the Commerce Department started requiring firms to inform them about compliance with boycott requests. The report for the quarter showed compliance with boycott requests in 91 percent of the cases.

On Tuesday of this week, the Director of the Commerce Department's Office of Export Administration, reported that of 4,071 boycott requests reported by banks for the four month period ending March 1976, there were only 288 refusals to comply.

Since the mere "policy statement" in the present law has failed to deter compliance with the Arab boycott and halt discrimination against United States businesses and citizens, new measures are needed. Congress should enact legislation that prohibits firms from forwarding information about the race, religion, sex, or national origin of the firm's employees, directors, and shareholders. Companies should be flatly prohibited from participating in the boycott.

Two states (New York and Maryland) have enacted legislation in response to boycott-inspired discrimination. Some have claimed that as a result of the New York law, Arab trade may have switched to ports in other states. New York should not suffer because it took steps to protect its citizens from discrimination. Rather Congress should act now to establish a national policy against discrimination.

I cannot urge strongly enough that the committee report legislation to protect American businesses and citizens from the invidious and discriminatory impact of the Arab boycott.

Representative Holtzman Testifies on Bill To Stop Arab Boycotts

[From the Congressional Record, July 10, 1975]

The Speaker pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Holtzman) is recognized for 15 minutes.

Ms. Holtzman. Mr. Speaker, yesterday morning I testified before the Subcommittee on Monopolies and Commercial Law of the House Judiciary Committee on behalf of H.R. 5246, a bill to prohibit Arab-inspired secondary boycotts against American businesses. I introduced this bill together with Chairman Peter Rodino of the Judiciary Committee, and it now has 85 cosponsors from 25 States.

Because of the importance of this matter, I would like to bring my testimony to the attention of my colleagues.

TESTIMONY OF REPRESENTATIVE ELIZABETH HOLTZMAN

INTRODUCTION

I am deeply grateful to the distinguished Chairman of the Judiciary Committee, Peter W. Rodino, Jr., for his wise leadership in holding hearings on the important subject of Arab-inspired discriminatory boycotts. I am honored that he joined with me in introducing H.R. 5246 and that a majority of this subcommittee has co-sponsored it as well.

In recent months we have heard many reports of Arab economic blackmail aimed at American firms which trade with Israel or are owned by or employ Jews. Arab nations and businesses have not only directly refused to deal with such firms, but they have sought to force other American firms to discriminate against them as well. That they attempt to coerce others in this country to adopt those practices is dangerous and intolerable.

The implications of such economic coercion are enormous, posing a great and increasing threat to our Nation. A small number of Arab companies can, through economic pressure, influence a much larger number of American companies to participate in discriminatory practices. Thus, a multiplier effect is created which could spread discrimination throughout American business. And as their economic power grows, the Arabs are likely to have a much greater influence on American business than ever before, both through foreign trade and through increased investment in domestic corporations.

We cannot allow the Arabs to use naked economic blackmail to coerce Americans into engaging in religous discrimination, and we cannot allow any foreign power to dictate business practices in the United States.

PROVISIONS OF H.R. 5246

It is essential, then that Congress act quickly to protect Americans from foreign economic blackmail. H.R. 5246 will do so. It imposes stiff criminal and civil penalties on companies which use economic means to coerce others to discriminate against Americans because of religion, race, sex, national origin or lawful support for or trade with another country.

The bill also penalizes any company that cooperates with or participates in an illegal boycott. This provision is particularly important, because it will furnish American firms with a legal basis for resisting discriminatory Arab economic pressure, and deny competitive advantage to any company which would yield to such pressure.

Thus, for example, it would be unlawful, under the bill, for an Arab bank to tell an American company—as a condition of dealing with that company—not to do business with another firm, because it is owned by Jews, or because it trades with the State of Israel. It would be unlawful, as well, for the American company to obey such a discriminatory command.

Although the bill was designed to meet the immediate threat posed by Arab oil blackmail, its scope is broader. It is intended to protect all Americans against secondary boycotts engaged in for purposes of religious, racial, or other discrimination.

In order to have a substantial deterrent effect, the bill imposes severe penalties, equal to those in the antitrust laws. Any company which instigates an illegal boycott would be subject to fines of up to $1 million, and its officials subject to imprisonment for terms of up to 3 years and fines of up to $100,000. A firm that participates in a boycott would be subject to fines of up to half a million dollars, and its officials to fines of up to $50,000.

The Attorney General is also authorized to seek a civil penalty of up to $500,000 against a firm initiating a discriminatory boycott. If the firm is not present in the United States, the Attorney General is empowered, in an appropriate proceeding, to seize its assets in this country, including any funds owed to it by an American company, to satisfy the civil penalty.

Any person or company injured by an illegal boycott could bring action in Federal court for treble damages against a company investigating the boycott. In addition, an individual or company would have the right to sue to stop a boycott from going into effect, and to bring an action for damages against a company participating in a boycott.

Every effort has been made to draft a bill that protects all Americans from invidious economic coercion, but does not, in the process, infringe on rights of free expression. Eminent legal authorities have been consulted in the drafting

of the bill to assure that it prohibits Arab economic blackmail and similar types of discriminatory economic coercion, but nothing else. Thus, the prohibition against instigating a boycott applies only to companies conducting business for a profit—not to individuals, labor unions, and nonprofit organizations. Second, the bill prohibits only secondary boycotts; that is, the pressuring of "neutrals" to refuse to do buisness with a third person for reasons of race, religion, sex, or trading with a foreign country.

DIMENSIONS OF THE PROBLEM

It has been the unique good fortune of America not to have to worry about foreign economic threats to our way of life. Now, for the first time in our 200 years, this independence may be slipping away because of the growing wealth of the oil producing nations.

It is staggering to realize the present and potential wealth of the OPEC nations. OPEC oil revenues in 1974 were estimated at $105 billion Of this amount, some $55 billion is surplus, available for foreign investment. The remaining $50 billion is used to purchase goods and services—in large part from the United States and other industrialized nations.

These sums provide the Arab nations with enormous leverage in the world economy—leverage which is only beginning to be felt because the great portion of the wealth has been acquired in the past two years. In the words of Assistant Secretary of the Treasury Gerald L. Parsky: "We must recognize that the increased economic power of the Arab oil exporting countries has substantially enhanced the potential effect of the boycott. Being boycotted by the Arab League is a much more serious situation for most American firms in 1975 than it was in 1955."

And I might add, it will be even more serious in 1980 when it is estimated that the Arabs may be importing $200 billion a year in goods and services, and when they may have accumulated half a trillion dollars in investment capital—equal to the value of all companies listed on the New York Stock Exchange.

How serious is the situation now? The full impact of the petrodollars is hard to gauge, but by viewing a few illustrations, we may get an idea of the size of the problem.

Under the Export Administration Act, exporters are required to report any requests they receive to engage in restrictive trade practices. From 1970 through 1974, exporters reported 44,709 transactions involving Arab requests for discriminatory trade practices against Israel. In only 14 of these transactions, 0.03 percent of the time, did an exporter say it would not comply with the discriminatory request. Indeed, last year, when exports to Arab League nations rose 80 percent to $3.4 billion, not one exporter reported a refusal to comply with a discriminatory request.

Reports under the Export Administration Act represent only the slimmest tip of the iceberg, since the Commerce Department acknowledges that the vast majority of exporters either do not know of, or simply ignore, its requirements. Thus, while the Commerce Department estimates that 30,000 U.S. firms either do business abroad or have expressed an interest in doing so, no more than 60 firms have ever reported discrimination requests in any of the last five years. In addition, the Act does not apply to shipping companies, banks, and other financial institutions, all of which are subject to the Arab boycott.

The influence of Arab money on financial institutions is even harder to determine because no law requires the identification of all foreign investments in the U.S. According to one estimate, Arab nations have two to three billion dollars deposited in each of several major New York banks. The withdrawal or even the threatened withdrawal of those deposits, representing from 8 percent to 15 percent of a bank's assets, could cause great financial dislocation.

Arab wealth has, thus, grown to the point at which it can exert great influence on American business. The projected tenfold increase in this wealth in the future presents a truly frightening prospect and demands the immediate attention of the Congress.

DISCRIMINATORY PRACTICES USED

The chief means used by the Arabs to coerce American businesses is the Arab League boycott. A list of companies to be boycotted is produced by the League's Boycott Office in Damascus, Syria, and each League member develops its own blacklist based on this master list.

Companies are blacklisted because they allegedly contribute to the military or economic strength of Israel. While the criteria for determining whether a company should be included on the list are not at all clear (nor are they rigorously followed), its scope is broad. A company may be blacklisted because of so-called "Zionist tendencies," which may mean that a prominent officer or shareholder supports the existence of the State of Israel or has donated to Jewish causes. Firms may be blacklisted because they are joint venture partners of other blacklisted firms, because they operate branches in Israel, or because they provide technical assistance to Israeli companies.

Arab governments and businesses are not supposed to contract with, sell to, buy from, or patronize blacklisted firms. Some examples:

An Arab company which is a leader or comanager of an investment venture cannot contract with a blacklisted investor. Thus, the Kuwait International Investment Company withdrew from two lending syndicates when its co-manager, Merrill Lynch, Pierce, Fenner and Smith, refused to drop Lazard Freres as an underwriter. The Kuwaitis have successfully forced blacklisted underwriters out of several French lending syndicates.

Arab companies direct American banks not to pay exporters, unless the exporter certifies compliance with the boycott. Thus, in order to make payment under a Letter of Credit, the Bankers Trust Company required suppliers and exporters to declare that the company which produced the commodity supplied was not affiliated with a company on the blacklist, and that the supplier or exporter had no direct or indirect connection with Israel. In this way, American banks are made the enforcing agents of the Arab boycott.

Suppliers of goods to the Arabs are required to certify that the goods are not of Israeli origin, do not contain Israeli materials, and are not manufactured by companies on the blacklist.

Shippers are required to certify that the particular vessel used is not blacklisted, is not owned by an Israeli and will not call at an Israeli port.

Pressures can be direct—as when the Arab League Boycott Conference warned Volkswagen to stop dealing with Israel. (Volkswagen, to its credit, has not complied.)

Pressure can be subtle. In an unverified story, recounted in the New York financial community, an American corporation was seeking a loan from an American investment bank. Saudi Arabian money was involved. An officer of the American bank said that because some of the company's directors were associated with blacklisted firms, there might be some problem with the loan. Whether or not the company ultimately receives this loan, it will certainly have a good look at its Board of Directors and be more careful next time. And whether or not the story is accurate, it is likely to have an effect.

Some of the biggest American companies are involved. The Ford Motor Company is on the blacklist and its President is quoted as saying: "I would like to see Ford off the list." The Chase Manhattan Bank refused to open an Israeli branch, acknowledging that it feared economic retaliation by the Arabs. If Ford and Chase Manhattan can be intimidated, how can the average firm hope to resist Arab blackmail?

THE ANTITRUST LAWS ARE NOT AN EFFECTIVE ALTERNATIVE TO H.R. 5246

The anti-trust laws are broad and general. They do not, in so many words, outlaw primary or even secondary boycotts.[1] If they are to apply to discriminatory secondary boycotts, it can come about only through judicial interpretation.

There are, however, a number of serious legal problems with applying the anti-trust laws to discriminatory secondary boycotts. In fact, the Justice Department—in its testimony of March 3, 1975, before a House Foreign Affairs Subcommittee—expressed serious reservations about the applicability of the anti-trust laws to this problem.

Let me enumerate for you some of these legal stumbling blocks. The first and most serious one is the so-called "foreign compulsion" defense to an anti-trust prosecution. A company can avoid any liability by proving that its illegal anti-trust actions were coerced by a foreign government.

In this regard, the recent case of Internamerican Refining Corp. v. Texaco Maracaibo, Inc.,[2] is instructive. Here, a U.S. corporation brought a treble damage action against two other American corporations which refused to ship oil to it.

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[1] Section 1 of the Sherman Act makes illegal "every contract, combination . . . or conspiracy in restraint of trade or commerce . . . with foreign nations."

[2] (307 F. Supp. 1291 (D. Del. 1970).)

The two American corporate defendants claimed that they were exempt from liability because they were coerced into a boycott by the Venezuelan Government. They claimed that the Venezuelan Government threatened not to sell them any more oil if they did business with the American plaintiff. The court held the defense of coercion was valid. Unless this case is overruled, it would seem to provide a ready defense to virtually all anti-trust prosecutions aimed at discriminatory secondary boycotts.

The "combination and conspiracy" requirement of the anti-trust laws is the second stumbling block. It may be difficult to cover some of the most serious offenses under this language. For example, let us take the situation where a company engages in discriminatory boycotts in order to obtain economic benefits that would not be available otherwise. Suppose there is no actual agreement or contract to engage in that discrimination. Would this be covered under "contract and conspiracy" requirement? Perhaps not.

The third problem occurs with the defense of sovereign immunity. Business enterprises owned by or agents of foreign governments might claim that theirs were acts of the sovereign government and that they, therefore, were immune from prosecution. The fourth problem arises from the "material adverse effect" requirement. The Government would have to show that a boycott against businesses that trade with Israel would have a "material adverse effect" on commerce in the United States. But, if the particular goods could be sold either to Arab countries or to Israel, it might be very difficult to show any material harm to U.S. commerce from coercing a company to sell those same goods to one rather than the other.

The Justice Department also pointed out a final barrier to a successful anti-trust prosecution: the fact that the Arab-inspired boycotts are politically, not commercially, motivated. If actions in restraint of trade that have non-commercial purposes are legal, obviously any discriminatory secondary boycott would be legal.

Even if the courts in the final analysis construe Section 1 of the Sherman Anti-trust Act to cover discriminatory secondary boycotts, we would still be confronted with two problems. First, it is not clear the Justice Department will attempt to bring any prosecutions. Only a few months ago, it expressed doubts about the applicability of the anti-trust laws. In fact, its failure to utilize the anti-trust laws to protect U.S. businesses since 1946 speaks to the point rather eloquently.

A second and equally important hurdle is the fact that courts may be unlikely to impose stiff anti-trust penalties for discriminatory secondary boycotts. At the outset, for example, there may be judicial reluctance to impose treble damages where there is a substantial change in the interpretation of the law.

The provisions of H.R. 5246 avoid all of these problems and make is possible to impose stiff sanctions on discriminatory secondary boycotts. That is the purpose of the bill. Its mandate to the courts and the Justice Department is clear. The bill plainly rejects the foreign compulsion defense. The bill eliminates the problems with "combination or conspiracy" language. Section 246(b) makes it clear that efforts to engage in discriminatory conduct for the purpose of avoiding coercion are prohibited. The bill, of course, eliminates any possible need for a finding of commercial motivation.

H.R. 5246 deals effectively with the sovereign immunity defense. The Internal Revenue Service exerts jurisdiction by imposing a tax on business enterprises which are, in essence, agencies of foreign governments. (Section 892; Revenue Ruling 66–73.) While H.R. 5246 excepts nations themselves as defendants, it covers all business enterprises that are reachable for tax purposes—even if they are wholly owned by foreign governments.

Therefore, in view of the serious legal questions that will arise from an effort to apply the anti-trust laws to discriminatory secondary boycotts, it seems to me that the most effective way of dealing with the problem is simply and explicitly to outlaw it, in so many words.

Mr. FRASER. Thank you very much, Ms. Holtzman.

DIPLOMACY

The State Department, as I understand it, claims that through quiet diplomacy they are able to deal with these issues. I take it you don't think they have had much success.

Ms. HOLTZMAN. I think the figures belie that claimed success. We have not seen any substantial improvement in terms of the numbers of companies refusing to comply with the Arab boycott request. This is demonstrated by the Commerce Department's own figures.

Second, we have more reported incidents of employees, Jewish employees, claiming discrimination.

Third, we have not seen the disappearance of the letters of credit which require a statement of boycott compliance by American banks, nor have we seen a disappearance of the effects of the boycott.

I think the statement by the Secretary of State and the State Department, that this is a matter to be taken care of by diplomacy, is incorrect. Congress has an obligation to protect its citizens against discrimination, which is dictated in this instance by the action of the Arab boycott.

Mr. FRASER. Well, I know of one case personally in which a friend of mine was asked to withdraw from participation in a job so that the company could get a contract in one of the Arab countries. In my view, if State is as concerned about these problems here as they are about human rights issues abroad, they don't care very much and they don't do very much and I agree with you. It couldn't be any worse than to have these practices recreate discriminatory practices inside the United States. I think that absolutely intolerable.

DISCRIMINATION

Ms. HOLTZMAN. May I say, Mr. Chairman, also that this country has made substantial strides in the past in eliminating arbitrary discrimination based on religion and we are making strides with respect to discrimination based on race and other matters. Isn't it an incredibly ironic and bitter and tragic thing to permit these advances to be overturned, especially at the instigation of outside powers, which are using neutral Americans and neutral American business as economic tools to serve their own ends. I think the Congress really has an obligation to protect Americans in this circumstance.

Mr. FRASER. Well, I agree very much.

Mr. Findley.

Mr. FINDLEY. Thank you, Mr. Chairman.

LEGISLATIVE PROPOSALS

Ms. Holtzman, we are delighted that you came to bring your forceful statement. You don't have specific language that you recommend for inclusion but I hope at some point you will give us your judgment of proposals that will come forward in the form of amendments.

Ms. HOLTZMAN. Mr. Findley, let me say I introduced a bill, which is now before the House Judiciary Committee, that would deal with this matter by imposing very stiff civil and criminal penalties. The administration has supported a portion of the bill—not the portion that protects American business against boycotts, but the portion that protects Americans against discrimination—and I am happy at least it is willing to go that far. I don't think it is far enough but I would tell the gentleman I would be more than honored if I could provide any assistance to this committee or to him in terms of trying to deal with this problem. I think it is a very serious one.

Mr. FINDLEY. Thank you, Mr. Chairman.

Mr. FRASER. Mr. Solarz.

Mr. SOLARZ. I want to take this opportunity to congratulate my distinguished colleague from Brooklyn, who is my next-door political neighbor, for the very thoughtful work she has done on this issue. Were it not for the fact that your own bill has not, I gather, been called up for consideration in the Judiciary Committee, you probably wouldn't have had to deal with this question in our own committee. As fate would have it, we have the responsibility. I want to indicate I think your own work in this regard has really helped to lay the political and legislative basis for a number of other proposals that subsequently have been introduced.

IMPORTANCE OF MIDDLE EAST MARKET

I would like to ask you, if I may, how you would deal with what seems to me to be the emerging fundamental objection to the kind of prohibitions with respect to compliance with the boycott which you and a number of other members have advocated. That is, our trade with the Arab countries is substantial, and it is likely to become even more substantial.

I heard some people suggest that by 1980 it may be as much as $10 billion a year. Obviously, we have difficult economic circumstances in the country, presumably a lot of jobs are at stake.

In spite of this boycott, Israel seems to have done relatively well economically. Obviously the boycott hasn't been helpful to Israel but it doesn't appear to have brought Israel economically to its knees.

In light of those considerations, what is the justification for running the risk of losing all of this trade with the Arab countries?

I am just asking the question so you can address it yourself.

DISCRIMINATION

Ms. HOLTZMAN. With regard to the first matter, it seems to me absolutely unconscionable for our Government to permit, even to obtain economic gains at the cost of fostering discriminatory practices against American citizens. Right now the OPEC nations are concerned about Israel and, therefore, discrimination on the basis of religion is what is likely to occur. But it doesn't take very much imagination to see that the discriminatory purposes of the Arab boycott could be directed at people on the basis of national origin or on the basis of sex or race. I don't think this country can tolerate that.

ANTITRUST

Second, the Justice Department has now brought a lawsuit against a corporation claiming that participation in the boycott in some cases violates the antitrust laws. The State Department, I gather, wasn't too happy about the initiation of this suit. If the suit is sustained, then the antitrust laws themselves will impose criminal and civil penalties for some kinds of participation in the boycott.

The real problem is that the Justice Department has taken the position for a number of years that the antitrust laws do not apply to most

aspects of the boycott and it could take many years for the case to be litigated.

Let me also add the Arab countries need our trade just as much as we need theirs and, in any case, I think our Government has an overriding obligation to protect our citizens' freedom of commerce and discrimination.

Mr. SOLARZ. Let me pursue that, if I may, for a moment.

I think everyone pretty much agrees we cannot countenance discrimination against our own citizens on the basis of religion or race or anything else. In fact, even the administration takes the position that any American firm which refused to hire people of particular religious faiths at the request of a particular country would be violating existing rules and regulations.

SECONDARY BOYCOTT

At the same time, everybody pretty much agrees that in terms of the primary boycott, if the Arab countries don't want to trade with Israel, that is their business and nobody can prevent them from doing so. The real controversy seems to be over the secondary boycott in which the Arab countries take the position they won't trade with any American firm that is doing business with Israel.

Purely in those terms I wonder if you could address yourself to the prohibition against compliance with the secondary boycott?

Ms. HOLTZMAN. The secondary boycott goes even further. It involves not only the refusal to do business with a company that deals directly with Israel, but even with a company that has an association with another company that deals with Israel.

Basically, this country has a solemn obligation to protect American business with respect to freedom of commerce. As long as we have no specific laws prohibiting our companies from trading with a foreign country, our companies ought to be free to trade with that country, and yet, as a result of the boycott, any company that is going to trade with Israel, or with a company that does business with Israel, has its markets in this country restricted and it is put at a competitive disadvantage. I don't believe that our Government ought to permit that kind of absence of competition. It should permit companies in this country to deal on an equal footing as long as they are obeying the law.

I would hope that this is a principle that we could continue to apply.

I think the only reason the administration opposes any statutory enactment of a prohibition against the boycott is that they want to deal with this through diplomacy.

Mr. SOLARZ. I just want to say in conclusion, Mr. Chairman, that the witness, I thought, made one very important point. Those of us who come from a State like New York where an antiboycott regulation has been enacted have a problem where the Port of Brooklyn is losing a substantial amount of business because people are coming to other ports. In the absence of national legislation people from our city who desperately need jobs will suffer significantly.

Thank you.

Mr. FRASER. Mr. Whalen.

Mr. WHALEN. Thank you, Mr. Chairman.

REFUSAL TO DEAL

Ms. Holtzman, I would like to inquire a little further on the point raised by Congressman Solarz. In your bill how do you treat this problem of Arab refusal to deal with companies which are trading or have invested in Israel?

Ms. HOLTZMAN. Well, I don't think we have any concern, in a legislative sense, about a foreign country that wishes or doesn't wish to do business with the State of Israel. It is when that foreign country—be it an Arab country now, or any other country at any other time—makes neutral American businesses pawns and tools in their economic warfare against another country, that the problem arises. Then I think our country's obligation is to protect our companies so that they can trade freely as they desire and so that American companies cannot be put at an unfair competitive disadvantage if, for example, they wish to trade with Israel.

Mr. WHALEN. I share your concern but I am not quite certain that you responded to the question. If company "A" has a plant in Israel, how would you handle the situation where an Arab State refused to purchase from company "A"? It is an American company. Does your bill address that?

Ms. HOLTZMAN. Yes; the bill really deals with American companies here in the United States and it is carefully worded to deal specifically with the issue of the secondary boycott and not to go beyond that. It is also worded to permit consumers who boycott businesses for political reasons to continue those activities. There are some free speech aspects.

I think the secondary boycott is a legitimate concern, and have tried, in the bill I introduced in the Judiciary Committee, to take care of that problem.

DISCRIMINATION

Mr. WHALEN. I share your concern about the requirement often imposed by Arab States that domestic firms discriminate against their own employees.

It has been argued by some that we already have laws that take care of this. How would you respond to that argument?

Ms. HOLTZMAN. Let me answer that as follows:

The present Federal laws that protect against discrimination on the basis of religion, sex, and the like, are limited only to companies that have 15 employees or more. They do not protect employees in companies of under 15 employees. They do not protect members of boards of directors. They don't reach the situation where, for example, a company will say "perhaps it is unwise to have Jews on the board of directors because now we are doing business with Arab countries," and so they fire or get rid of the Jewish members of the board of directors.

The present laws don't protect partners. For example, some stock brokerage firms, some export companies, some architectural firms might be operating as partnerships, and partners who are eliminated on the basis of religion would not be in any way covered under the present law. So you have those three areas in which the present laws do not protect against that kind of discrimination.

Mr. WHALEN. Thank you.

Thank you, Mr. Chairman.
Mr. FRASER. Mr. Biester.
Mr. BIESTER. Thank you, Mr. Chairman.

PRIMARY BOYCOTT

I wonder if I can separate in my own mind exactly what I think are three areas of concern—one being the primary boycott, in which, let's say, an Arab country decides it will not do business with Israel. I take it you have no concern about that. I don't know how anybody can deal with that.

Ms. HOLTZMAN. I don't think our country would have jurisdiction to deal with that problem.

DISCRIMINATION

Mr. BIESTER. Now, as to the third of these problems, the intracompany discrimination problem. If our current laws don't handle that we should devise laws that do because that is one of our fundamental purposes as a country, as a people. So, I don't have any difficulty with those two. It is the one in the middle that gives me my problems.

I would appreciate any help you could give me on it.

REFUSAL TO DEAL

With respect to, let's say, company "A" that Mr. Whalen was talking about, which is an American company, it does business with Israel, or has investments in Israel, as a result of which an Arab country says OK, we won't do business with you. How does the American Government control that, by passing a new law?

Ms. HOLTZMAN. Yes, but how it is controlled depends on the nature of the bill that is passed.

Mr. BIESTER. How would your bill handle it?

Ms. HOLTZMAN. Well, it would operate if the Arab country were subject to the jurisdiction of the United States, and that sometimes is not the case. I mean an Arab Government saying in its own territory "we are not going to deal with you," would not be covered. If it is the Kuwaiti Bank, which is operating in the United States, and we have jurisdiction, then that kind of statement would be covered.

DISCLOSURE

What the bills before this committee do is to prohibit inquiries as to what trade a company has with foreign countries and to prohibit employment inquiries as to the race and sex and religion of the employees so that a foreign country will have some difficulty in making a decision as to whether or not to boycott the particular company. That, I think, is a very appropriate and very important way of dealing with this problem.

Once a company doesn't have to disclose or is prohibited from disclosing information about its trade with foreign countries and its trade with other American companies, then it becomes much harder to enforce the boycott.

Mr. BIESTER. You help me tremendously but I still have a small hole left with respect to the secondary boycott question.

Now, as to that, if the question would come from the branch of a Kuwaiti Bank, or a branch of a Saudi Arabian company in the United States, we would have control of that; but if the questionnaire came from the headquarters of the Kuwaiti Bank to a branch of an American company in France, would we have any control of that?

Ms. HOLTZMAN. Maybe not. I think, Mr. Biester, we would have to say we can't solve the problem to 100 percent satisfaction, but I think the important thing is that we begin to deal with this problem as best we can, at least in situations that are the gravest and where our jurisdiction is the clearest.

IMPLEMENTATION OF THE BOYCOTT

Let me point out that often the secondary boycott doesn't involve only three parties—and Arab country, an American company, and Israel. Usually it is an Arab country, an American company, a second American company that does business with Israel, and Israel. Then there are four parties, and the problem is that the Arab country is causing an American company not to do business with another American company because that company is trading with Israel. An Arab country can tell an American company not to use an American ship if that ship stops at an Israeli port or not to buy parts from an American company because that company also has a factory in Israel.

It really seems to me that the problem is that a foreign country is dictating what companies an American company can deal with on the basis of factors having to do with an outside country. That, I think, is the serious problem.

I think we ought to permit an American company to deal freely with other American companies based on the competitive quality of their goods and not on the basis of whether they do business with Israel.

Mr. BIESTER. Would your bill handle that?

Ms. HOLTZMAN. My bill will handle that but my bill is not within the jurisdiction of your committee. The bills before this committee also effectively deal with that problem and I really think they are very important.

Mr. BIESTER. Very good, thank you.

Mr. FRASER. Mr. Bingham.

Mr. BINGHAM. Thank you, Mr. Chairman.

I have no questions but I would just like to compliment the gentlelady on her statement and her testimony and her leadership in this field.

Ms. HOLTZMAN. I thank the gentleman from New York.

Mr. FRASER. Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

I, too, want to join my colleagues in commending the gentlelady for her interest and concern in this vital issue and for formulating legislation worthy of consideration by this and other committees.

LEGISLATIVE PROPOSALS

Of the legislation presently pending before this committee, which of the Arab boycott bills do you find to be the most important and which would you recommend for passage?

Ms. HOLTZMAN. Well, I think the bills take different approaches. I would say that, to deal effectively with the boycott, any bill from this committee ought to have the provision restricting the providing of information to a foreign country as to the race, religion, sex, and the like of a company's employees, and information with regard to other companies or countries that a company does business with. That would be, in and of itself, a terribly important tool in restricting the application of the boycott. I think, second, that your bill ought to prohibit participation in the boycott.

If you enact those two provisions, you will have gone a very long way to stopping this problem.

Let me add: I am not even sure that we are ever going to require imposition of any penalties once such a bill becomes law. I think if American companies can say, "We are prohibited by our country's laws from doing this," then we have given American companies a leg to stand on in resisting the boycott. That may be all that is necessary under the circumstances.

DIPLOMACY

Mr. GILMAN. In their testimony concerning these measures, the administration, Commerce Department, State Department, have indicated that in due time the problem would take care of itself and that some progress is being made. What are your comments with regard to their contentions?

IMPACT OF THE BOYCOTT

Ms. HOLTZMAN. Well, I haven't seen any evidence that that has occurred. I think rather than the situation getting better, in my judgment, the situation will get worse because, as I have indicated, the petrodollars in OPEC countries are going to increase. As the number of those dollars increases, the ability of the Arab countries to blackmail American businesses will increase and not decrease. We have already seen some indications of increased boycott pressure, some reports, for example, of discrimination in architectural firms that do construction business in the Arab countries. In one situation, there was a settlement between a Boston company and two Jewish employees of complaints regarding discrimination as a result of the company's desire to do business with Arab countries. Yes, we may continue to let this situation go forward and not deal with it by statute, but then we really are permitting Americans to become subject to enormous powers which will permit discrimination against them. I just don't think we can really tolerate that or further pressures against American companies. I don't think our country ought to permit it to happen.

IMPACT OF ANTIBOYCOTT LEGISLATION

Mr. GILMAN. There were several business and professional groups that appeared before this committee in opposition to the legislation. The general contractors group and a consulting engineers group both indicated that because of the massive amount of potential Arab dollars out there that adopting this legislation would be turning away much needed business to the American economy.

What is your response to that?

Ms. HOLTZMAN. My response is that American technological expertise is something that Arabs are going to need desperately and do need desperately and if it becomes a law of this country that we do not permit this kind of discrimination then I think that the Arab countries will cope with this problem. I don't think that we are going to find competitors who can compete with our expertise in all aspects of world trade. There may be some economic damage. I am not saying that that is not a possibility. But I think we have to weigh the damage that will be caused to American citizens by discrimination on the basis of their religion. This is not, it seems to me, a tolerable thing for this country to permit. Second, if we do not resist the boycott, we are going to be restricting the ability of American companies to do business lawfully under our Constitution and under our country's laws with foreign countries. I don't think that our country ought to permit an erosion of that principle. Some companies right now are being damaged economically because they have done business with Israel. Can we stand by and see that kind of economic harm continue?

So, I consider the possible loss of Arab trade to be a concern, but I think there are overriding economic concerns and overriding policy concerns about freedom of trade and protecting Americans from discrimination that argue persuasively for enactment of statutory protections against the boycott.

Mr. GILMAN. I thank the gentlelady for her comments.

Mr. FRASER. Mr. Lagomarsino.

Mr. LAGOMARSINO. I have no questions.

Mr. FRASER. Thank you very much, Ms. Holtzman. We appreciate your testimony this morning. You have been very helpful to the committee.

Ms. HOLTZMAN. Thank you, very much.

Mr. FRASER. We will turn now to Professor Wohlstetter of the University of Chicago.

For those who weren't here earlier I will simply repeat, Professor Wohlstetter is a defense and nuclear analyst and also consultant to the Director of the Arms Control and Disarmament Agency and has served as consultant to the Secretary of Defense and other Governmental agencies.

Professor Wohlstetter.

STATEMENT OF ALBERT WOHLSTETTER, PROFESSOR, UNIVERSITY OF CHICAGO AND CONSULTANT TO THE DIRECTOR OF THE ARMS CONTROL AND DISARMAMENT AGENCY

Mr. WOHLSTETTER. Thank you, Mr. Chairman. I appreciate the opportunity to discuss with this committee the potential spread of nuclear weapons that is permitted by present export rules. I would like to put in the record at this point the introductory chapter of a study of this problem that I recently concluded with several colleagues.

Mr. FRASER. Without objection, we will incorporate that in an appropriate place in the record.

[The document referred to is chapter 1 of "Moving Toward Life in a Nuclear Armed Crowd?" which follows:]

I. The Trends and the Questions They Pose *

"Whatever else hospitals do, they shouldn't spread disease."

Florence Nightingale

What follows is concerned with analyzing trends in the spread of nuclear technology, and with using the analysis to define questions critical for policy. It is intended to raise more questions than it will answer. For good reason. In this complicated and fateful area of policy, very often actions taken for the best of ends, perversely, defeat them. If our policies are to cope with the spread of military-nuclear technology rather than encourage it, it's essential that they be more than symbolic and well intended, more than "allusive and sentimental" (as Robert Oppenheimer called Atoms for Peace). They need to be concrete and aimed precisely at the problems posed by changes in the real world. Otherwise, like the 19th Century hospitals Florence Nightingale referred to, they are as likely to spread the disease as to cure it. But then, it is essential to understand underlying causes and effects. This phase of our work is deliberately a preface to policy.

To Sum Up Some Key Points

1. Many countries, including many agreeing not to make bombs, will come very close to it without violating the agreements.

o It has been understood from the outset of the nuclear age that designing a bomb and getting the non-nuclear components are much easier than getting fissile material in high enough concentrations for an explosive. Research on bomb design and testing of non-nuclear bomb components are not prevented by agreement, and can proceed in parallel with the accumulation of fissile material. Fissile uranium (in particular U235) or fissile plutonium (especially Pu239) in concentrations high enough to need no isotope separation and only a modest amount of chemical separation are then the key hard-to-get requisites for making a nuclear bomb.

o By 1985, according to their 1975 plans, nearly 40 countries will have enough chemically separable plutonium for a few bombs in the spent fuel produced by their electric power reactors.

o About half these countries have been planning a capacity by then to separate at least that much plutonium from the spent fuel.

* © Albert Wohlstetter, March, 1976.

o A few years later, if plutonium recycling has become general, many governments will come significantly closer to obtaining chemically separated plutonium metal, even if they do not themselves separate plutonium from spent fuel: Those that manufacture plutonium dioxide fuel rods will have plutonium easily available in their starting and in-process inventories. If they neither separate plutonium nor manufacture their own plutonium fuel rods, nonetheless about 25 or more countries would have very large quantities of plutonium (from 50 to 1400 bombs worth) in fresh unirradiated fuel.

o Some research (as distinct from electric power) reactors may be fueled by weapons grade uranium and some, like the CIRUS reactor supplied by Canada to India, may produce plutonium for a few explosives. Reactors used for ship propulsion use highly enriched uranium as fuel. Each of these is a potential source of weapons grade material, obtainable without violating agreements. The weapons material these sources might provide will be dwarfed, however, by the plutonium output of electric power reactors owned by an increasing number of countries.

o All of this can happen without violating agreements -- at least any clearly understood, unambiguous agreements: A kind of growing legitimate -- but Damocletian -- "overhang" of countries increasingly near the edge of making bombs.

o This overhang of countries acquiring material for nuclear weapons as a legitimate byproduct of civilian programs is in addition to those that might get it by an overt military program they have not foresworn; or, by cheating; or simply by shopping, as Libya has tried, for a finished bomb.

2. For this major problem of a growing legitimate "overhang," safeguards will become increasingly irrelevant. The "overhang" requires no diversion, and therefore no violation of safeguards.

o The U.S. bilateral and trilateral agreements on nuclear cooperation that we have examined (over half of those concluded with 30 countries) leave title to the plutonium in the countries operating the reactors, subject only to safeguards. But the acquisition and storage of this material can grow legitimately under watch by a safeguards inspector.

o The distinction between "safe" or civilian activities and military or "dangerous" activities is becoming increasingly ambiguous

o This ambiguity will confuse and reduce warning that bombs are about to be made, or that they can quickly be made; such ambiguities also weaken sanctions. (Sanctions impose some costs on suppliers as well as on recipients, and the less clear cut the violation, the weaker the resolve of the supplier.)

3. Sophisticated proponents of a safeguard system stress that it is primarily a kind of early warning alarm bell. However, as things stand, the IAEA safeguards system which is designed to detect diversion may actually muffle signs of the critical changes taking place without diversion.

o The early warning that has always been implicit in the notion of safeguards would permit individual governments to respond appropriately and in time even if no collective sanctions have been defined.

o But the IAEA rules, designed to protect commercial and industrial secrets, obscure information relevant for the decisions on security by governments.

o The IAEA treats information reported to it by the individual countries it monitors as to actual quantities of nuclear materials and their physical and chemical states as "Safeguards Confidential." It does not show this critical information to any other governments; much less to the public.

o As a result, not much is known in or out of governments in any regular way about the distribution by country of stocks of fissile material.

4. The most immediate prospects for acquiring nuclear explosives tend now to be small or less developed countries (LDCs), especially those outside the Soviet orbit, not -- as once expected -- the most advanced industrial powers.

o The situation may be like that of the Marxist revolution: predicted for the advanced bourgeois countries, it came in the backward ones.

o This development, among other things, may complicate the problem of slowing the spread of bombs by merging it with problems of the demand by the less developed countries in the third world for equity (or more precisely, equality) with the advanced industrial countries, many of which are also nuclear exporters.

5. The problem of subnational or transnational nuclear terror seems most acute in those countries that are the most immediate prospects for acquiring nuclear weapons.

o Nuclear terror, while possible in the United States, has recently because of its sensational character, been given an exaggerated amount of attention here: Congress and the press have given it more notice than the worsening problem of proliferation.

o Some of the countries that may soon acquire nuclear weapons, however, are politically unstable and much more liable to sudden threats of mass destruction from dissident factions.

6. The most likely countries to decide for nuclear weapons appear to be nonaligned by choice or to be outcasts, dropouts or fading members of alliance systems, especially the U.S. alliance system: South Korea, shaken by the collapse in Southeast Asia; Taiwan by that and the U.S. rapprochement with the People's Republic; Pakistan, which left SEATO feeling unhelped by the U.S. and the U.K. in its conflict with an India that has since shown that it can make and detonate nuclear explosives; Iran, now following a policy of "independent nationalism" in the Middle East and interested in keeping external powers out of the Gulf; Brazil and Argentina asserting independence in the Western Hemisphere; Spain so far excluded from NATO; and South Africa oddman out of all alliance systems. In the same way the few Communist countries that may move in this direction are outside the Soviet orbit, like Yugoslavia, or moving away from it in foreign policy, like Rumania.

7. For most less developed countries whose civilian programs are moving them closer to a military capability, the civilian economics look particularly poor: Nuclear electric power is capital-intensive and more likely to be economic on a very large scale. But less developed countries are in general short of capital and need electric power generated in smaller units.

- o The oil price increase by OPEC (Organization of Petroleum Exporting Countries) intensified the scarcity of capital and foreign exchange in those less developed countries that are not members of OPEC. Initial predictions immediately after October, 1973, that the price increase would make nuclear electric power generally economic for LDCs, even compared with fossil fuels such as imported or indigenous coal, were misleading and have been revised. The economics of recycling plutonium (recycling is particularly dangerous from the standpoint of proliferation) look especially unattractive in LDCs.

- o The LDCs in OPEC that have suddenly acquired a great deal of capital have small needs for energy and very large supplies of fossil fuel.

- o Investment in nuclear energy is a poor choice among alternatives for the economic development for LDCs. It diverts capital from more productive uses. In short, compared with alternatives, instead of speeding economic development and slowing the spread of military technology, as we had hoped for decades, the subsidized transfer of nuclear technology has slowed development and may speed the spread.

8. Trends in the relative cost of some forms of nuclear electric power most dangerous from a military standpoint make them look much less attractive even from a strictly economic point of view. Programs for such nuclear processes need to be looked at with particular sobriety and skepticism.

- o It would be worth a substantial economic sacrifice to avoid the large political costs in allowing the development of a world of many nuclear armed states. And some sacrifice in the form of extra dollar costs might conceivably be involved in restricting nuclear electric power to less dangerous forms that minimize access to readily fissionable material. However, such extra costs are not at all likely to

be large in relation to total electric power costs; and they may be negative. We may save money as well as potential trouble by foregoing some plainly dangerous activities now contemplated.

o The trends in capital costs of High Temperature Gas Cooled Reactors (HTGRs)--particularly dangerous because they have been designed to be fueled by weapons grade uranium with a 93% concentration in the fissile isotope U235--now make HTGRs look unpromising.

o More important, trends show a drastic worsening in the relative costs of light water reactor (LWR) power with plutonium recycling, compared to such power without recycling.

o The estimated costs to separate plutonium from electric power reactors have increased tenfold in ten years. They remain highly uncertain. Extracting plutonium from LWR spent fuel and making it into plutonium fuel rods to replace some fraction of the uranium fuel and recovering uranium from the spent fuel, it now appears, will be more expensive than using the fresh uranium fuel rods they would replace: 50% more in a large (5 MTU* per day) plant in the United States; 80% more in such a plant in a multinational nuclear center; 400% more in a 1 MTU per day plant which would be quite large for a less developed country. (Costs might double again for plutonium extracted from heavy water reactors (HWRs). Recycling fissile material from HWRs is even less economic than from LWRs since the HWR spent fuel contains plutonium in more dilute form and uranium with much lower U235 content than natural uranium.) Recycling, in short, seems likely to lose rather than save money.

o Nor would it conserve much scarce uranium. A recent OECD (Organization for Economic Cooperation and Development) estimate indicates that for the entire non-Communist world, the cumulative savings from plutonium recycle until the year 2000 might amount to 9 months' supply of uranium at that date. Together with the recovered uranium, the recovered plutonium might reduce requirements for fresh uranium by about 10%.** A recent estimate by the Electric Power Research Institute (EPRI) suggests a cumulative saving in the non-Communist world of about 13% by the year 2000 or slightly more than OECD's. For the United States, the EPRI numbers indicate uranium savings of about 10% by 1990 and 16% by the year 2000.

* 5 MTU means 5 metric tons in uranium content of the spent fuel reprocessed.

**Recovered uranium is contaminated with U236 and is, therefore, equivalent to only about one-half the amount of uncontaminated uranium. We have taken this penalty factor into account in this and following estimates of resource savings from recycling of uranium.

o Based on the EPRI projections, savings from uranium and plutonium recycle would amount to about 1% of total energy consumption from 1975 to 1990 and, perhaps, to about 2 percent from 1975 to the year 2000. Such amounts are within the "noise" level of uncertain long-run forecasts of energy resources consumed.

o It follows that even if recycling plutonium and uranium saved money rather than lost it, it could not save much in delivered kilowatt hour costs. If we were to suppose that the costs of separating plutonium and the extra cost of fabricating plutonium dioxide fuel rods were zero, that is, that reprocessing were free, recycling could save only about a tenth of the uranium fuel costs incurred by the non-Communist world up to the year 2000. Since nuclear fuel cycle costs themselves are less than 10% of delivered kilowatt hour costs, that would mean a cost saving of about 1% even if reprocessing itself were to cost nothing. But reprocessing costs will be substantial.

o It cannot be persuasively maintained--though it is often repeated at the expense of some confusion in our anti-proliferation policy--that recycling is an essential to the future of nuclear electric power.

9. The current public debate unfortunately tends to pit extremes against each other: on the one hand advocates of stopping and dismantling all nuclear electric power as equally hostile to the environment and physical security; and on the other, those who appear to defend all forms of nuclear energy as vital to the growth of our own and other advanced industrial societies and as critical to the economic development of the poorer countries.

But the extreme alternatives are not in fact very interesting. It is plain, for example, that we will for a very long time use fossil fuels and nuclear fuels as well. The important choices all lie in between the extremes, such as the choice between reactors that recycle plutonium and those that do not, and in general, choices among various forms of non-nuclear and nuclear energy appropriate at particular times and places.

10. If nuclear weapon or near-weapon capabilities spread among less developed countries, the spread may at some later date alter the decisions of some advanced industrial countries that have so far deliberately foregone the development of an independent force of nuclear weapons.

o Advanced industrial countries like the Federal Republic of Germany and Japan have been both protected and constrained by their alliance relations.

o Alliances themselves may be weakened by the spread. (Nuclear weapons have long been promoted as a substitute for alliance.) If so, as the taboo weakens, some advanced countries may follow the less developed ones.

11. There are several branching processes that may increase the gathering instability we have described.

o Nuclear exports create not only users of nuclear electric power with the byproduct of fissile material, nuclear exports also create other nuclear exporters. So Westinghouse created Framatome, General Electric created Kraftwerk, and so on. Now it seems India may be in the business of exporting.

o It is possible to trace serial connections between the Chinese and the Indian explosions on the one hand, and the public and private decisions to edge toward the making of a nuclear explosive in other countries. In fact, though the Indian explosion followed the Chinese by nearly ten years, study of the development of the Indian program plainly shows the linkage. Case studies of other Asian and Middle Eastern countries show analogous links to the Indian explosion.

o These branching processes are, however, more complex than the exponential physical and biological processes that have suggested the standard metaphors of proliferation. They are not automatic, but depend on a complex set of political, military and economic relations.

o Nonetheless these cumulating changes point to serious instabilities in the processes of decision both to acquire and to use nuclear weapons. They add up to the prospect of a much more disorderly world.

12. A feeling of fatalism on this subject is growing. A few years ago two of the ablest students of proliferation commented that two views seemed to be emerging: One held that there was no problem (the Non-Proliferation Treaty would take care of it). The other held that there was no solution (nothing could be done about it). Today many seem to hold both of these positions. They base the more comfortable position (that there is no problem) on the hope that the spread might not be so bad in effect anyway. (Many of the countries that may get nuclear weapons, they say, will be quite responsible, especially when equipped with so awesome a capability for destruction.)

13. Our analysis of what it would be like to live in a crowd of nuclear nations leaves very little doubt that the potential spread would introduce new and very threatening dangers in the world. However, while it is very likely that there will be some further spread,

o How much and how rapidly is not a matter of fate, but a subject for policy.

o So is the management of the additional spread that does take place.

o That the rate and extent of spread is not immutable is shown by the fact that past and recent plans in various countries to install power reactors and chemical separation plants have altered. In fact they change all the time, responding to pressures of economics as well as domestic and international politics. The 1975 plans that underlie the charts displaying the "yellow overhang" (of countries with enough separable plutonium for a few bombs) and the "red overhang" (of countries planning to separate at least that much plutonium) were deflated somewhat to correct for overoptimism, and the plans have already shifted. Some reactors have been deferred. At least one chemical separation plant (in Korea) has been canceled. We can affect such plans by deliberately changing the economic and the political-military incentives.

14. Affecting the spread and/or managing it will depend on shaping political desires and this, in turn, will depend on the conduct of alliance relationships, as well as on a sober and clearheaded view of the economics and politics of nuclear exports. But there is room for policy choice:

o Among civilian alternatives, including some among distinct forms of nuclear electric power. For example, a choice between nuclear power with and without plutonium recycle.

o Among military alternatives: a) in alliance policy; b) in the development and deployment of non-nuclear technologies that can displace nuclear ones.

o Among arms control alternatives considered in the broadest sense which includes, besides formal agreements, any actions in the joint interest of potential adversaries.

The Shrinking Critical Time to Make Explosives

A few of these key points in the summary deserve a brief expansion and documentation:

First, on past alarms and the present prospects. Past alarms have been mainly false. There have been several: the first immediately after Hiroshima; the next major one at the end of the 1950s. A typical prophecy of 1960, for example, forecast the addition of 12 new countries exploding nuclear devices in the following six years. By comparison with these early alarms the actual increase in the number of countries testing has been very slow. Three additional countries tested at intervals of eight, four, and ten years in the 22 years following the British nuclear explosion.

The error in these early predictions of rapid spread gives some ground for doubting the apocalyptic prophecies that swarm in this field. It is clearly a matter of political will and not merely technical and industrial competence. Nonetheless there is cause for alarm today in the changes that are gathering beneath the surface. Even if the number of countries testing should continue to develop slowly, the civilian nuclear programs now under way assure that many new countries will have travelled a long distance down the path to a nuclear weapons capability. In many cases the remaining distance will be short enough to mean that even a rather small impulse might carry a government the rest of the way, and the movement of one government may provide the impulse for others. This in turn will mean a new and dangerous instability.

Second, the extensive fundamental overlap of the paths to nuclear explosives and to civilian uses of nuclear energy has been recognized since the mid-1940s. We have almost from the start said that the military and civilian atoms were substantially identical yet, paradoxically, that we wanted both to stop one and to promote the other. This paradox was present in the discussions leading up to the Truman-Atlee-King Three Nation Declaration of October 1945, and it saw its most valiant effort to reconcile these opposing purposes in the Acheson-Lilienthal Report of 1946. We discuss this at greater length elsewhere, but it is worth explaining briefly at this point.

The Acheson-Lilienthal Report tried to resolve the dilemma by proposing to "denature" plutonium: that is, to make it ineffective as an explosive. This was to be accomplished by leaving the fuel in the reactors long enough so that the fissile isotope plutonium 239 generated in the uranium fuel rods would in turn generate higher isotopes of plutonium, and in particular, plutonium 240, which was known to have several drawbacks from the standpoint of the state-of-the-art of weapons design of the time. The discussion of this proposal was necessarily muted and limited by the

requirements of secrecy and by the bounds of the current state-of-the-art. The initial report was predicated on the belief that denaturing would impose the formidable barrier of isotope separation for the plutonium and thus, given the elaborate mechanism of international control called for in the Plan, assure some two to three years' warning. This hope was almost immediately modified, but it has generated a long and inconsistent trail of statements that still have their effect in encouraging the belief that plutonium left in the reactor long enough to become contaminated with 20 to 30 percent of the higher isotopes Pu_{240} or Pu_{242} would be unusable, or at any rate, extremely ineffective when used in a nuclear explosive. Since reactors operated "normally" to produce electric power were expected for reasons of economics to achieve maximum "burnup" of the fuel by leaving the fuel rods in the reactor long enough to so contaminate the rods, a kind of denaturing was hoped for as a result of standard reactor operating procedures. However, this hope turned out to be a slender reed.

An explosive that is truly nuclear may be made from such power reactor plutonium, that is, it will release 1,000 times the energy per pound of ordinary high explosives. This is now clear from authoritative public sources.* Therefore a need for isotopic separation of plutonium 239 does not form a barrier to making an explosive from reactor-grade plutonium.

For governments accumulating the spent fuel, the barrier to obtaining a high enough concentration of fissile plutonium will be the need to separate the plutonium chemically. This is a less formidable obstacle than isotopic separation, the facility for which costs billions of dollars using present techniques and would take years to construct. The critical time to make an explosive from spent reactor fuel is less than the two or three years originally hoped for. Nonetheless chemical separation is a substantial barrier and perhaps the most important one remaining. It might take a year to construct a chemical reprocessing plant for the purpose, and with the plant, the better part of a year to produce plutonium dioxide from the hot irradiated fuel rods. Depending, however, on what forms of nuclear fuel cycle become general, and where and under whose control the different phases of the cycle occur, governments may start with material considerably closer to the plutonium metal than the irradiated spent fuel. They might in fact, without violating any rules, start with separated plutonium dioxide or plutonium nitrate. That might be perhaps a week or less away from the metal. The rules, in fact do not, in general, preclude stocking the metal itself; and as Dr. Taylor has said, the oxide powder may be used instead.

Figure 1 presents three possible nuclear fuel cycles for the Light Water Reactors (LWRs), involving three alternative dispositions for plutonium.

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*See Chapter 3

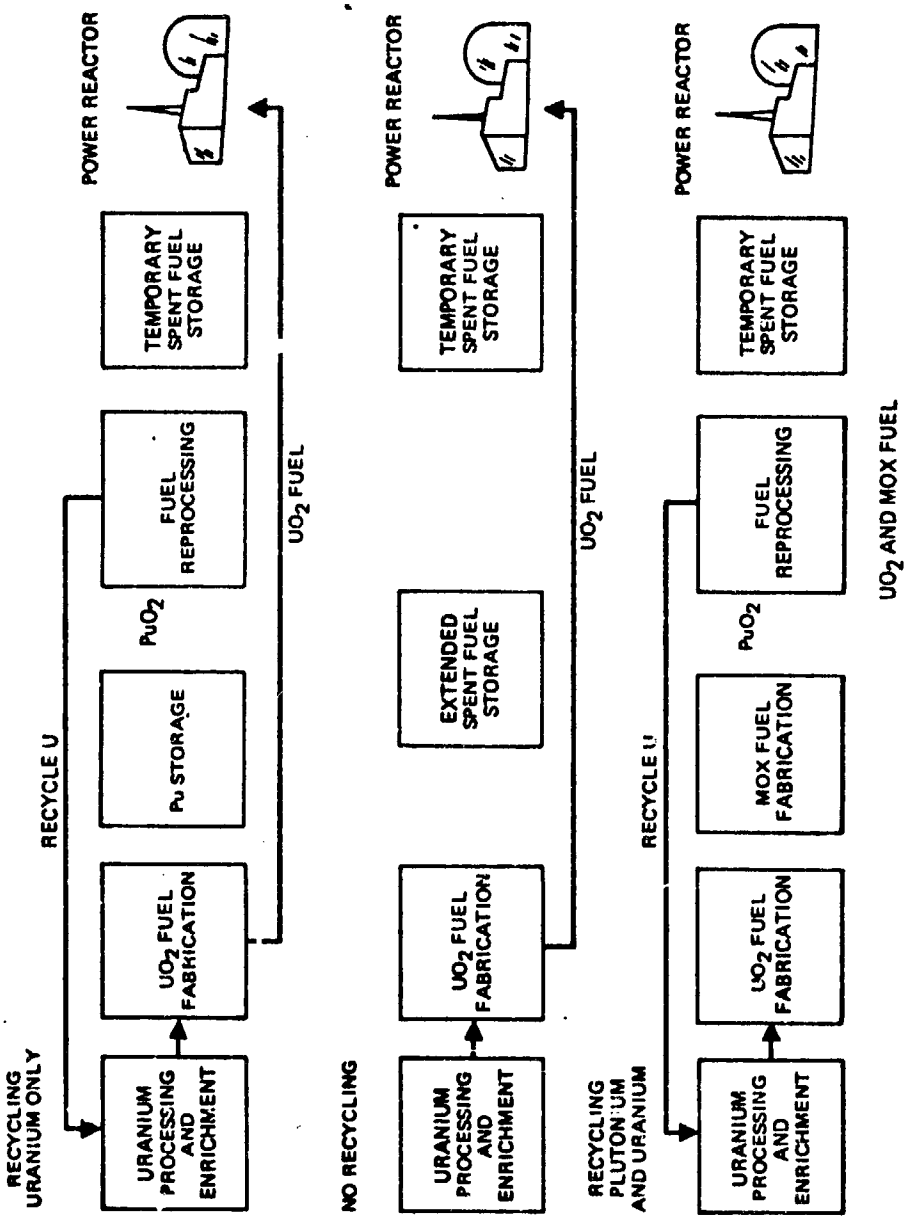

Figure 1 – PLUTONIUM DISPOSITION ALTERNATIVES 1990

(It is adapted from the six alternatives considered in the General Environmental Statement on Mixed Oxides (GESMO) published by the Atomic Energy Commission in 1974. Among other things, we simplify by not distinguishing permanent and temporary storage.)

The first disposition involves recycling uranium and the temporary or permanent storage of plutonium. The second involves no recycling of either uranium or plutonium and the storage of spent fuel. The third involves the recycling of both uranium and plutonium and involves besides chemical reprocessing the fabrication of "mixed oxide" fuel.

The first is referred to as the basic current alternative by the GESMO, but in fact present practice more accurately corresponds to the second alternative, with no recycling whatsoever. The third alternative has been contemplated since the early 1950s in the United States and has served as a model in plans formed in many other countries before the soaring costs of reprocessing called it into question. Even before this cost increase the more optimistic estimates current at the time GESMO was written showed no substantial savings to be obtained by recycling as far as kilowatt hour costs were concerned. Nor did they show any decisive conservation effects. Plutonium recycling was expected to delay a shortage of uranium by perhaps a year and a half at the 1990s rate of demand. Since then the benefits in conservation have been estimated to be even smaller and the dollar benefits appear negative. However, the alternative fuel cycles have very different implications for shortening the critical time to make a nuclear explosive.

In Figure 1 we have used colors to display closeness to plutonium metal, and for simplicity we have distinguished three states in which plutonium might be found at various points in one or another of these cycles. The first state is in spent fuel. We have colored this yellow to indicate that while obtaining the plutonium in spent fuel is a considerable stride along the road to nuclear weapons, compared to the situation of the present weapons states that started from scratch, there remains substantial further effort. Reprocessing of spent fuel involves remote manipulation of extremely toxic, radioactive substances, facilities with six or seven feet of shielding, lead glass windows, etc., and the handling of substantial quantities of spent fuel in order to produce small quantities of plutonium. Chemical separation of plutonium for weapons, however, can be simpler than the separation of plutonium as an economic substitute for uranium in electric power reactors. The spent fuel can be found of course in all of the three fuel cycles shown.

At the other extreme is the plutonium that can be found at the output or "back" end of reprocessing plants and at the input or front end of plants fabricating plutonium or "mixed oxide" fuel. Such plutonium in the form of plutonium dioxide or plutonium nitrate could be converted to plutonium metal using handbook methods and without remote handling equipment or extensive shielding and the like, but only a glove box.

And as we have said, it should take no more than a week. We have therefore colored red the points in the various alternative nuclear fuel cycles at which plutonium dioxide (PuO_2) or plutonium nitrate ($Pu(NO_3)_4$) might be found. Such points do not occur in the light water reactor cycle without recycling of either uranium or plutonium. They do in the other two cases, and especially where the plutonium is recycled.

Plutonium would also be found, if it is recycled, in fresh unirradiated fuel rods at the input end of the reactor. Extracting plutonium from such mixed oxide fuel would be considerably easier than taking it out of the irradiated spent uranium fuel. Plutonium is considerably more concentrated in the mixed oxide fuel rods (4.5% compared to .7%). Unlike the irradiated fuel, it is not highly radioactive and would require no "hot cells" with heavy shielding, remote manipulation, etc., and would require no removal of fission products. We have colored orange the points in this cycle at which fresh mixed oxide fuel might be found.

We can measure the advance towards the ability to manufacture nuclear explosives implicit in the present civilian nuclear electric power programs then by showing first the number of countries, including the present weapons states, that will have enough separable but possibly unseparated plutonium for a few bombs between now and 1985 (the condition yellow). Then the number of countries that have planned to have a capability to separate that much plutonium by 1985 (the condition red). And third, the quantities of plutonium that will be available in fresh reloads of unirradiated fuel (the condition orange) to a large number of countries, if plutonium recycling should become general, and even if these countries do not themselves separate plutonium or manufacture plutonium fuel rods. The results of these three sets of calculations are displayed respectively in Figures 2 and 3, and in Figure 4 and Table 1.

The first thing to be said about the numbers in these figures is that they are very large ones. Chemical reparation of plutonium and the enrichment of uranium are civilian activities which have long been regarded as "normal" parts of the nuclear electric power fuel cycle. They may sometimes and in some places be discouraged by various ad hoc national policies, but they have not been subject to a clear cut international or universal national prohibition by supplier countries. The problem of inhibiting or reducing the size of this burgeoning capability is not merely then a matter of an improved watch, to see that a clearly agreed prohibited line is not crossed. Among other things, it would involve defining and moving such a clearly understood and agreed boundary to preclude activities that cannot provide adequate warning. And for whatever dangerous activities remain on the permissible side of the agreed boundary, we need to elaborate consistent unilateral policy to discourage them and encourage other safer alternatives.

Figure 2 – THE OVERHANG OF COUNTRIES WITH ENOUGH SEPARABLE PLUTONIUM FOR PRIMITIVE OR SMALL MILITARY FORCES

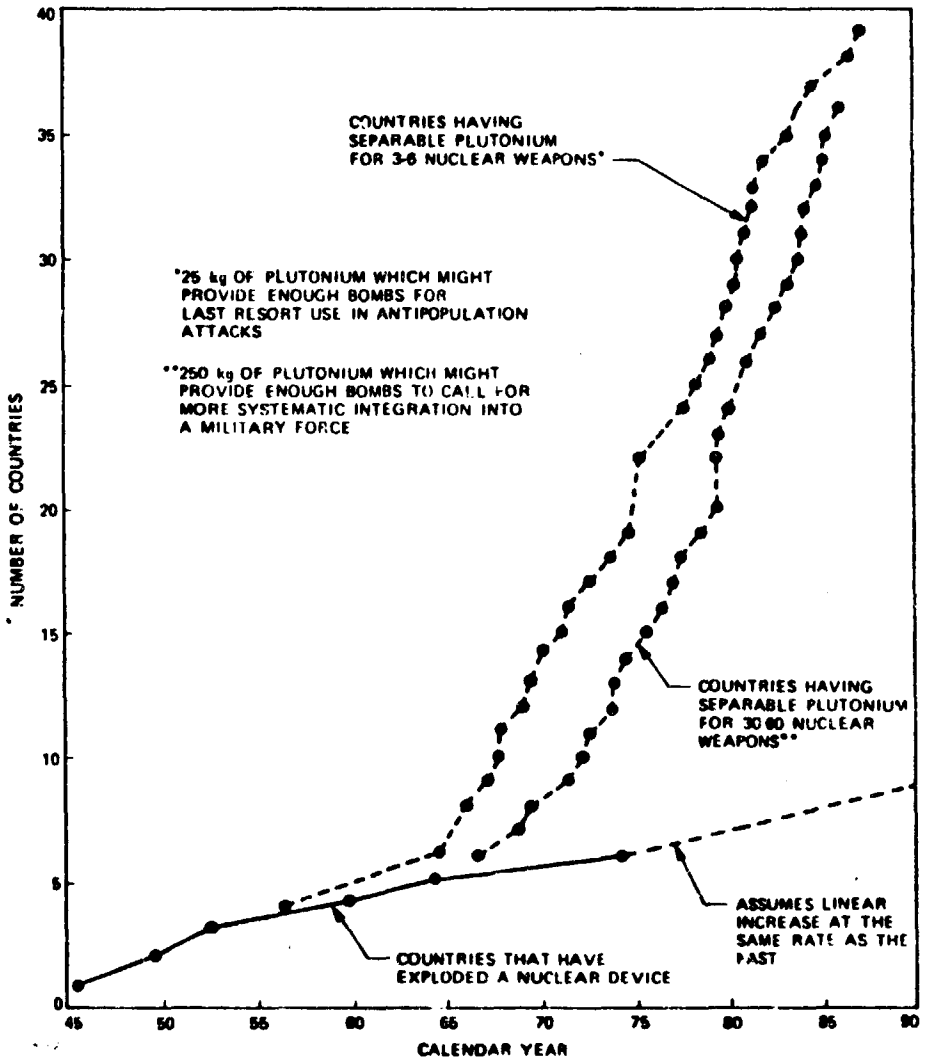

Figure 3 – COUNTRIES PLANNING TO HAVE PLANTS FOR SEPARATING PLUTONIUM OR ENRICHING URANIUM IN QUANTITIES ENOUGH FOR SEVERAL BOMBS

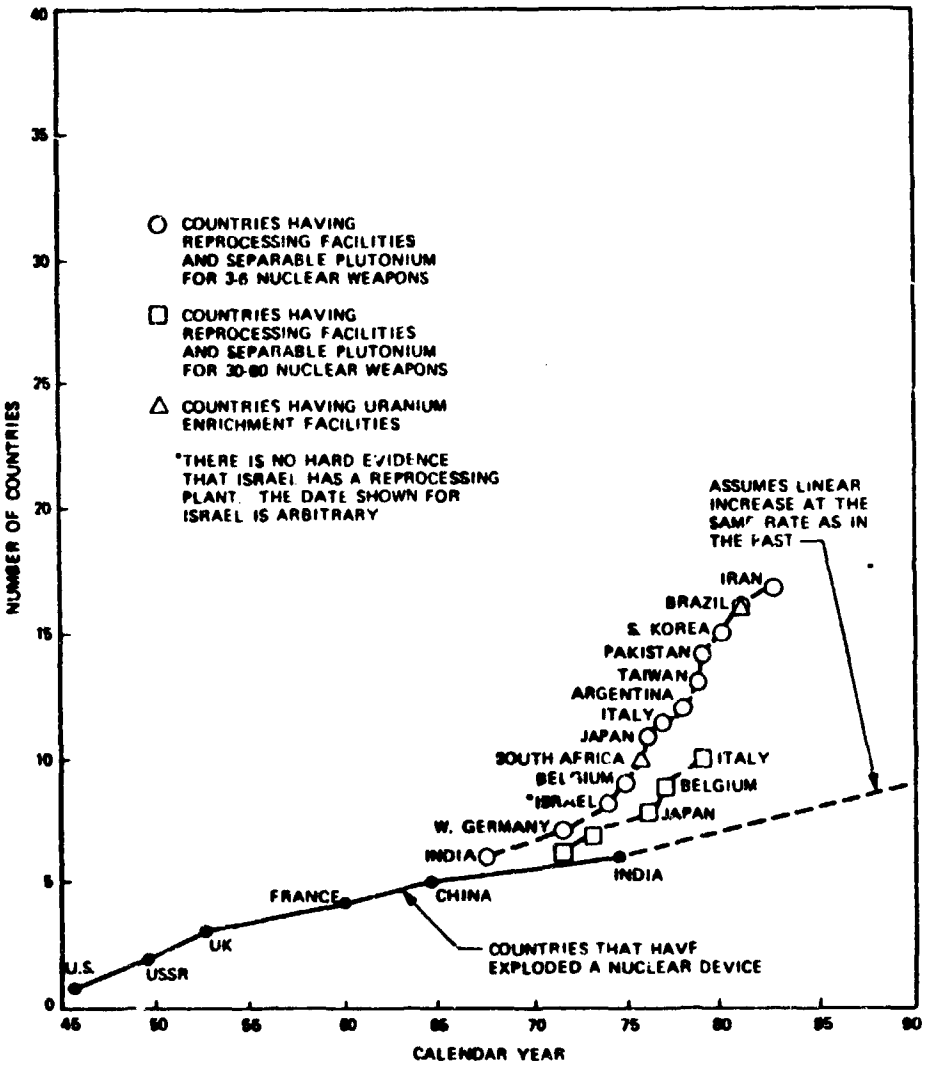

Figure 4.— PLUTONIUM AVAILABLE FROM MOX REACTOR RELOADS IN THE EARLY 1990's USING ONLY HOMOGENOUSLY PRODUCED PLUTONIUM

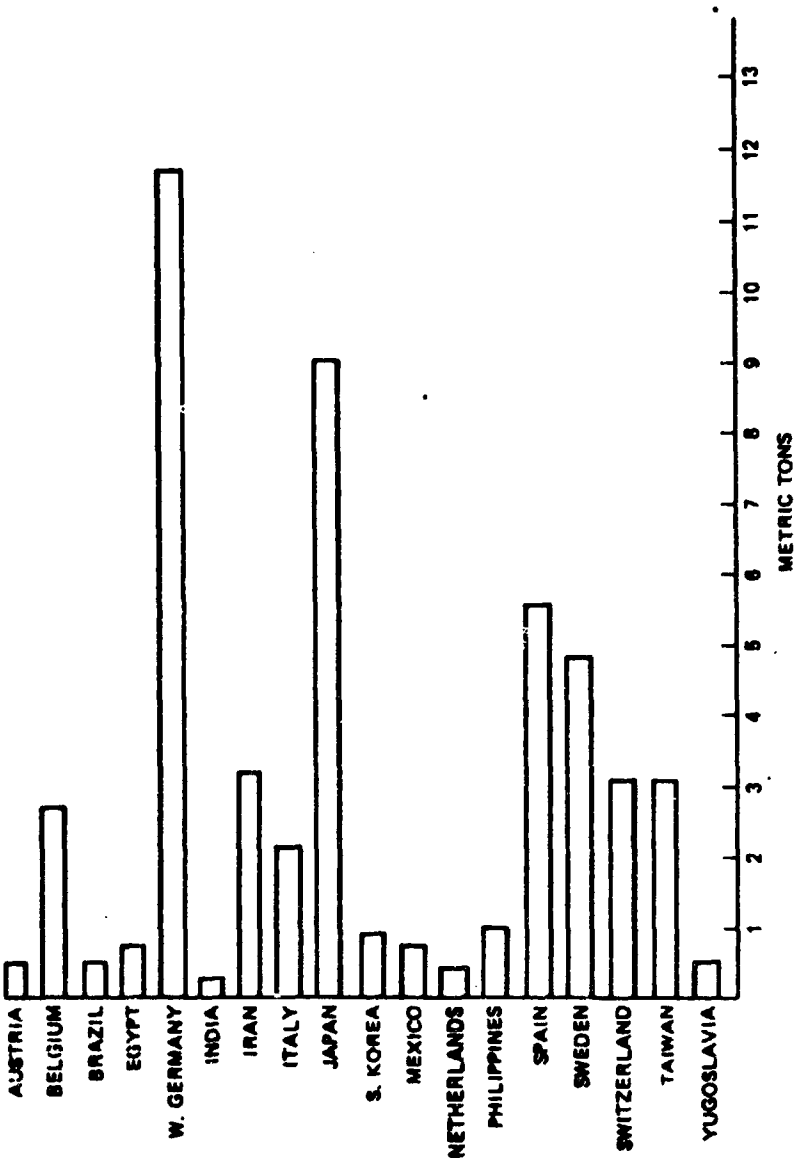

Table 1
PLUTONIUM AVAILABLE FROM MOX REACTOR RELOADS IN THE EARLY 1990s
USING ONLY INDIGENOUSLY PRODUCED PLUTONIUM*

	kg of Pu**	Number of Bomb Worth***
Austria	400	46
Belgium	2,800	325
Brazil	500	58
West Germany	11,700	1,357
India****	360	42
Iran	3,200	371
Italy	2,100	244
Japan	9,000	1,044
South Korea	900	104
Mexico	800	93
Netherlands	400	46
Philippines	1,000	116
Spain	5,600	650
Sweden	4,800	557
Switzerland	3,200	371
Taiwan	3,200	371
Yugoslavia	500	58
Egypt	700	81

*Assuming that one reload is always kept at each reactor. Any country not having MOX fuel fabrication facilities could justify this practice although this was not be standard practice in all countries on this list. Even if this is not the case, a single MOX reload would probably contain [illegible] kg of Pu (60 to 80 bombs worth). In countries that do have mixed oxide fuel fabrication facilities, there would be still larger amounts of Pu available in process.

**Assuming 580 kg per 1000 Mwe MOX reload and 270 kg per 1000 Mwe PWR reload, linear scaling for other reactor sizes. See U.S. Atomic Energy Commission, Generic Environmental Statement Mixed Oxide Fuel (GESMO), Vol. III, August 1976, p. IV C-65.

***8.62 kg Pu per bomb assuming 5 kg fissile Pu/bomb and assuming MOX Pu is 58% fissile Pu.

****The figures for India are the result of direct calculation.

The second thing to be said is that this large growth is not inevitable. It presumes the carrying through of plans, negotiations, and constructions not yet committed, and of varying degrees of firmness; some have had setbacks. The growth, moreover, is open to influence, a subject for the elaboration of policy of supplier as well as recipient governments. Some aspects of the policy for the U.S. can be general, but a good deal of it must be developed in packages appropriate to the individual countries. The curves of Figures 2, 3, and 4 are not unconditional forecasts, but indications of what may happen if conditions are not altered. For our present purposes however, the gist of Figures 2, 3, and 4 is that under the present rules of the game, any of a very large number of countries may take these further long strides towards nuclear weapons capability in the next ten years or so without violating the rules--at least no rigorously formulated, agreed on rule

Governments may be able to appropriate stocks of highly-enriched uranium or plutonium as a means of weapon development. Countries without facilities to produce these may have substantial stocks of them resident in their countries in research facilities or, in the future, in commercial reactors. High Temperature Gas Reactors, for example, would contain 1000-2000 kgs of highly enriched uranium. If plutonium recycle becomes widespread, a single reload for a reactor might contain 350-900 kgs of easily separable plutonium. A national government does not have to steal these stocks or even divert them in order to be very close to being

able to make nuclear explosives. Many Bilateral Agreements assign title to the stocks to the recipient government. Some Bilateral Agreements do not explicitly exclude use for peaceful nuclear explosives. And of course even for those countries that have ratified the Non-Proliferation Treaty, the exclusion of peaceful explosives in Article V would not survive a three-month notice of withdrawal permitted under Article XI.

These paths of approach towards a weapons capability considered here, it should be noted, do not break any precise, generally agreed on rules. They are in addition to paths that exploit the weakness of sanctions against breaking the Non-Proliferation Treaty or bilateral rules, and in addition to paths open to those governments that have not ratified the Non-Proliferation Treaty. Extending the Non-Proliferation Treaty to more countries or increasing the efficiency of "safeguards" or physical security measures would not, therefore, block these paths. The recent wave of interest in measures against "diversion," especially by subnational groups, while useful in itself, distracts attention from the steady spread of capabilities within the rules. Some percentage of the stocks of fissile material might always be diverted within the limits of error of material unaccounted for by any inspection system. In the future when these stocks are very large, even a small percentage of such diversion would yield significant absolute amounts. This tends therefore to be the focus of most attention. Yet it may be much less important than the possibility of accumulating the whole of a significant stockpile of fissile material legitimately, without diversion, and using it later for explosives.

In our study we have distinguished for convenience four kinds of nuclear explosive capability. The first is the sort of capability that has been much in the public eye in the last year or two, due especially to the efforts of Dr. Theodore Taylor to make clear its dangers. It would consist in the manufacture of a crude device derived from stolen fissile material, perhaps not using plutonium metal, but plutonium dioxide powder, yielding as little as ten or a hundred tonnes of energy, and designed for terrorist use by some subnational group, or possibly even a single individual. It might use poorly separated material and be dangerous not merely to explode in anger, but to store and handle. The second capability would rely on a few explosives in the kiloton range. They might be used by governments as a desperate last resort threat against populations. The third capability we have taken arbitrarily as consisting in perhaps 50 such devices, enough to call for plans to incorporate them into a military force. The fourth would be much more sophisticated. It is the kind that a middle industrial power like Japan might contemplate, if it made the decision to become a military nuclear power in the 1980s or 1990s.

In this phase of the study we have focussed especially on the second sort of capability and the conditions for obtaining it. It imposes no stringent requirements for delivery. And we have devoted a chapter to analysis of the complexities involved for a middle power to get a serious and responsible capability in the 1980s. We do not however mean to imply that the primitive last resort capability will actually realize the hopes some governments might place in it. It is likely to be extremely inflexible, vulnerable, and available only for suicidal use. Nonetheless some governments might take this route.

Relating Policy to "Legitimately" Shrinking Critical Time

While it is not our purpose in this first phase of the work to make policy recommendations, our analysis of the trend does define the problems that policy must address. It serves to show the inadequacy of many policies presently proposed.

The most fundamental problem displayed by our analysis is that, for an increasing number of "non-weapons" states, the critical time to make an explosive has been diminishing and will continue to diminish without any necessary violation of the clear agreed on rules--without any "diversion" needed--and therefore without any prospect of being curbed by safeguards that have been elaborated for the purpose of verifying whether the mutually agreed on rules have or have not been broken. This definition of the problem permits us at the very least to observe how much of our efforts (useful though they are for other purposes) are aimed squarely at this basic trouble.

We can illustrate the need for addressing that basic trouble more precisely by commenting on several current proposals for dealing with the problem of the spread of nuclear weapons. Some of the proposals at present most intensely advocated are rather fluid. For example, the form and functions of the Multinational Nuclear Centers, recently suggested by the U.S. Government, have been changing rapidly. This continuing evolution makes a careful attention to the relation between policy and purpose all the more fruitful. Some variants of these proposals may be useful. Some are plainly irrelevant. Some might have the perverse sort of effect all too familiar in this field.

1. Improvements in safeguards.

Many suggestions are current for improving the IAEA system of safeguards against diversion by national governments: by increasing the inspection budget, e.g., getting more inspectors; by improving the technologies of real-time on-line inspection, etc.; by using more subtle system-analytic methods or game theoretic methods and the like for detecting diversion in significant amounts. But the dangerous activities described shorten the time to make explosives without resorting to "diversion." Hence these improvements in the quantity of inspection or its statistical or technological sophistication are irrelevant for the purpose of preventing the reduction of the critical time. The line drawn between safe activities that are permitted under agreement and dangerous prohibited activities needs to be redrawn and clearly defined to make safeguards relevant. If, for example, the storage of separated plutonium, the manufacture of plutonium dioxide fuel rods, and even the use of recycled plutonium in fresh fuel rods are banned, an increase in the budget or the efficiency of methods for safeguarding of fuel might be feasible and useful.

2. "Collaborative transnational policing" by quasi-public or private groups.

This is not so much a policy put forward by any government as it is a recurring theme advanced by natural scientists and technologists who think of themselves as serving interests that transcend purely national ones. This old theme has recently been revived with the suggestion that the growth in number of countries increasingly near the edge of bomb manufacture will increase the ". . . opportunities and prospects for 'amateur' transnational sanction. . . by industry, by scientists and other essential technologists."

The suggestion for amateur policing raises doubts first about its virtues compared to the more formal and official varieties of policing and, second, as to its relevance for the problem. Transnational loyalties have a larger scope for operation in some countries than in others. National loyalties and national control of dissidence vary greatly by country. Transnational behavior blocking important government plans seems rather less likely in Taiwan, South Korea, Yugoslavia, and Rumania, for example, than, say, in Japan or Switzerland. And if any amateurs tried, they did not succeed in curbing India's progress toward the manufacture of nuclear explosives even before India's recent restrictions on dissent. Most to the point here, however, is the fact that policing of any sort, amateur or professional, is not enough. It doesn't address the problem posed by a country's legitimate movement along the path toward nuclear explosives. To curb such movements, one needs to redefine what is legitimate. Then sanctions, formal or informal, are conceivable.

3. Physical security against terrorists.

This has been perhaps the principal focus of public interest in recent years. The spectacular possibilities of nuclear terror by dissident groups have been conjured up jointly by the growth in stocks of strategic special nuclear material and by the headlined actions of terrorist groups especially in the Middle East and Latin America (but also by the internal disorder in the United States in the 1960s). It is only natural that the media, the Congress in its Hearings, and inevitably as a result, the regulators of the NRC and others concerned with civilian nuclear industry pay a good deal of attention to this possibility. And the focus on this contingency has been intensified by the efforts of a number of able physicists, in particular Dr. Theodore B. Taylor. However, even if the possibility of theft by subnational groups was completely eliminated, this would not foreclose the possibility that a government might itself divert materials. Still less would it prevent a government from steadily accumulating strategic special nuclear materials within the rules. Though measures of physical security may cause private industry to grumble, they have as one of their attractions that governments themselves are not hostile to them. Rulers have a clear self-interest in depriving subnational groups of nuclear explosives and they can therefore agree on a common policy. A good many problems in the international field are much more recalcitrant: specifically the

problem of reconciling the spread of civilian nuclear power with the restriction of access to fissile material by governments. However, measures of physical security do not address themselves to the problem of the shortening critical time for governments to get nuclear explosives that is taking place without any breaking of the rules. The lopsided media focus on terrorism tends to distract attention from the problem of the spread of nuclear capabilities to more countries.

Some measures taken to ban or discourage the shrinking critical time for governments might, on the other hand, make much more manageable their problem of physical security against theft and subnational terror. So, for example, the choice of a nuclear fuel cycle that does not involve recycling plutonium. (Plutonium separation generates great environmental hazards as well as dangers of theft.)

4. Agreements among nuclear exporters.

According to news accounts, we have been trying to persuade other suppliers to restrict their exports to countries that have ratified the Non-Proliferation Treaty, or that have at least accepted safeguards on all their nuclear activities. But so long as they are under "safeguards," the Treaty does not proscribe capabilities for separating plutonium, or enriching uranium; or stocking separated plutonium or highly enriched uranium, or making plutonium fuel rods or stocking fresh plutonium fuel rods made elsewhere. A safeguard inspector might observe these permitted activities and only confirm that a given country by undertaking them has shortened the time to get nuclear explosives. Similarly, a country that has not ratified the Treaty but agrees to safeguards on all its nuclear activities at most agrees to conduct its dangerous activities under safeguards.

There are important areas for potential agreement among exporters, for example, about the competitive subsidizing of nuclear exports to less developed countries. Export subsidies are a dubious form of international competition at best. However, the current practice of export financing in the case of nuclear exports seems peculiarly irrational from the standpoint of the exporting country, as well as the rest of the world. It involves a transfer or gift of resources from the exporting country, which compared with alternative investments may slow the recipient's economic development and, more importantly, is likely to have the particularly unpleasant external effect of bringing it close to the manufacture of nuclear weapons. It should be possible for suppliers to reach agreement not to subsidize the spread of weapons that might be used to destroy allies or friends, or even themselves.

Other possible agreements might be reached among suppliers of nuclear equipment. Some agreements might be aimed directly at the problem presented by technologies that would so shorten the time to make nuclear explosives as to make timely warning and response infeasible. If importing countries can, without violation, enrich uranium so as to concentrate uranium-235 enough

for explosives, or if they can separate plutonium in forms close to being usable in bombs, exporters should be clear that trilateral arrangements between themselves, the importers, and the IAEA for even the most rigorous inspection will not fulfill the original and essential function of safeguards. They will provide no safety. Nor does it soften the problem to say that the highly enriched uranium has a possible civilian use in research reactors or high temperature gas cooled reactors; and that the separated plutonium might be used, say, in a critical experiment in preparation for the long-awaited coming of breeder reactors; and that the importer has given his word that the materials will be used only for such peaceful ends. Safeguards would be unnecessary if everyone could be taken at his word forever. And genuine safeguards, namely those providing timely warning, will not be possible unless there is enough time left after a violation and before bomb assembly for detecting signals and acting on them. For that purpose, suppliers have grounds for restricting the sale of equipment, materials, and technology to prevent the shortening of the time to acquire nuclear explosives.

Neither the United States nor any other exporting country can claim always to have kept clearly and continuously in mind the essential need to inhibit the spread of nuclear activities such as reprocessing that would defeat the purpose of timely warning. In spite of the statements of various editorial writers, none of these governments can sensibly claim to have been much holier than the others. Nor would it be fruitful to spend much time in keeping score. What is more important, other exporting governments like our own have both an interest in the net gains from trade that might be made from an efficient unsubsidized nuclear export industry and a vital interest in curbing the wide spread of nuclear bombs. For some of the sensitive technologies, the economic benefits that might be foregone are plainly minor. The gains from exporting reprocessing equipment, for example, are likely to be modest at best. Reprocessing appears on the basis of our study to be uneconomic even in very large separation plants and much more so in the small plants required in the Third World. But even if, in defiance of the economics, reprocessing were to become universal, the demand for separation facilities and equipment would be small in relation to the demand for reactors--perhaps 2% of that market. Exporters might of course try to gain some special advantage in competition to sell reactors by tying reactor sales to an offer to supply separation plants to importers eager to get control of readily fissionable material. That, however, is precisely the sort of suicidal competition we should all agree to avoid.

5. Multinational Nuclear Centers

Much of our antiproliferation policy has moved recently in the direction of proposing Multinational Nuclear Centers (MNCs). These were talked of originally for the conduct of chemical reprocessing or for isotope enrichment, both of which are dangerous activities. There is an apparent advantage in a collective management that would mean mutual monitoring. And such arrangements might be useful provided they are clearly and effectively designed to replace and exclude national centers for separation

and enrichment. However, the multinational center proposals which were current in the press until recently would not plainly forbid members of the consortium from also constructing national facilities for undertaking reprocessing or enrichment on their own, perhaps on a smaller but nonetheless militarily significant scale. If they do not forbid national plants from enriching uranium or separating plutonium and if they do not also forbid national stocks of easily used fissile materials, MNCs would not address the basic problem of shrinking critical time. Nor is it clear that they would have the indirect effect of reducing incentives to get national facilities. The economics of plutonium recycling in the multinational centers themselves look poor, and if they are less poor than the economics of national facilities, it is doubtful that economics is what motivates the current interest in national separation facilities.

In fact, insofar as reprocessing is made to appear to be of crucial importance in the nuclear fuel cycle (and insofar as much larger flows of highly enriched uranium come to seem important for the propagation of HTGRs in the future) sovereign nations--especially the less developed ones--are likely to object to the surrender of their sovereign rights to undertake these activities on their own. Some less developed countries now argue that the prospect of MNCs requires them to undertake a national enterprise for separating plutonium as training and preparation for taking an active role in the multilateral enterprise. In this way, the multinational centers may perversely give some apparent legitimacy or reasonableness to national efforts on a smaller scale. MNCs would in any case transfer some of the technology needed for the national efforts.

In some variants, the MNCs would be limited essentially to the storage of spent fuel. That would be compatible with proscribing plutonium recycling and combined with such a proscription would address the basic problem of inhibiting the acquisition by more and more governments of stocks of readily fissionable material.

So would the concentration in MNCs rather than individual governments of facilities for isotopic as distinct from chemical separation, so long as such facilities produced only low enriched uranium suitable for reactor fuel. While the chemical separation of plutonium in MNCs and its shipment to member countries would defeat the purpose of assuring timely warning, the multinational production of low enriched uranium for the reactors of member countries would not have the same problem. Unlike separated plutonium, low enriched uranium is not readily fissionable, and is therefore not usable as an explosive. Centrifuge, or jet nozzle or laser isotope separation might in the future greatly decrease capital costs and so make feasible and economic the operation of enrichment plants in many more countries. The ability to separate isotopes of uranium (and therefore to produce highly enriched uranium for bombs) may then threaten to become widespread. In that case it would help if suppliers of enrichment technology restricted their exports to MNCs or weapon states and if non-weapon states got their low enriched uranium for reactor fuel from MNCs or their traditional sources among the weapons powers.

If not carefully defined in purpose, however, MNCs could as easily as not worsen the problem.

6. Stopping the "arms race" between superpowers.

Resolutions proposing to reduce U.S. and Soviet strategic forces have been advanced recently in the Senate and in the House as anti-proliferation measures. But whatever their other virtues, cuts in superpower nuclear forces or their budgets, a halt by the superpowers to nuclear testing, etc., plainly do not have any direct relevance for proscribing actions by the non-weapons states that without breaking the rules lessen the critical time to get a nuclear explosives capability. It is sometimes suggested that nonetheless they might affect incentives for the non-weapons states to get a nuclear weapon or incentives to lessen the time between the decision to get a nuclear weapon and the actual date when they will have one. In the case of the non-weapons states, a stipulation in the NPT that the superpowers disarm to a vaguely specified extent has offered an ultimate excuse for undertaking nuclear armament on their own. And it appeals to the sense of guilt familiar at least in the United States and the United Kingdom. However, it is doubtful that South Korea, or Taiwan, or India whose potential interest in nuclear weapons is not directly tied to their use against either of the two superpowers, would have their interest reduced at all by even a very extensive reduction in superpower armament (not to say a reduction in British armament). This observation has been substantiated by interviews.

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The next phase of our study will focus on the choice of policies that have a functional connection with the problem of the spread of military technology. Here, and in the rest of this present report, it is our purpose to deepen our understanding of that problem.

What follows then offers (1) a primer on the technology, with a more detailed analysis in the appendix, (2) a perspective on the problem of dividing safe or civilian or economic from dangerous military activities, (3) a study of the economic aspects of proliferation, with particular attention to the economics of recycling plutonium and to the economics of nuclear power in less developed countries. (4) Since the prior analysis is devoted especially to the possibility of the spread of primitive last resort capabilities to less developed countries, the next to the last chapter extends and supplements that analysis on the quite different problem of the middle power option, and (5) the final chapter concludes with an analysis of what it might be like to live in a crowd of nuclear armed countries.

Mr. WOHLSTETTER. The study is entitled "Moving Toward Life in a Nuclear Armed Crowd?" It was done for the Arms Control and Disarmament Agency. My remarks today will be based in part on that study and also on some continuing work. I'll touch on only a few points relevant to your current deliberations.

THE FUTURE SPREAD OF POWER REACTOR PLUTONIUM

In the past year the public has increasingly understood that the spread of civilian nuclear energy may bring with it a global spread of materials for making nuclear weapons. As of last year civilian nuclear power programs meant that some 40 countries by 1985 would have several bombs-worth of separable plutonium and nearly half of these countries were planning a capacity to separate at least that much plutonium. Most of these programs are going forward under agreements for nuclear cooperation that restrict transfer of technology, equipment, or materials to peaceful uses only. The exporting and importing countries in most cases are parties to the Non-Proliferation Treaty and as such have agreed not to offer or receive help in making bombs.

GETTING CLOSE TO THE BOMB WITHOUT PLAINLY VIOLATING THE RULES

It is less widely understood that the nonweapon states that have agreed not to make a bomb can come very close to making a bomb without violating the agreements or the treaty. And the suppliers who under the NPT promise not to assist nonweapon states in any way in getting nuclear weapons and nonetheless not precisely and explicitly prohibit from exporting facilities and materials that might bring an importing country to within a few days or even hours of a capability to explode the bomb. This is the problem the legislation you are considering addresses. It is a very important problem, one that is hardly ever faced, and one that has eluded solution so far.

SAFEGUARDS AGAINST VIOLATION NO BAR TO GETTING CLOSE WITHOUT VIOLATION

Suppliers of plants that separate fissile material frequently say, correctly, that the facilities they propose to supply will be subject to international inspection arrangements at least as stringent as any provided for currently. This may suggest that such "safeguards" would make the safeguarded activities safe. They would not. Not if the activities involved result in stocks of separated plutonium or highly enriched uranium.

The IAEA inspection system is designed to see that agreements under IAEA inspection are not violated, that materials are not diverted and that the limits of error of material unaccounted for are kept small. I have the greatest respect for the competence and good sense of Dr. Rudolph Rometsch, the IAEA Inspector General, who oversees the system. However, whether or not such a system will provide early warning depends on the nature of the agreement which is monitored, on what is excluded and what is permitted. If nuclear export agreements are formulated so loosely as to make it perfectly

legal to accumulate stocks of plutonium in a forum days or hours from insertion in a nuclear explosive, then no search for violation of the agreement, no matter how diligent and tight, will provide early or timely warning.

By timely warning I mean warning that provides time to do something in response to a violation before bombs are actually assembled and possibly used. If we want to make IAEA inspection arrangements serve the essential purpose of warning, it is up to us to define the agreements so that a close approach to weapons is a violation. The IAEA in 1971 indicated the purpose of their safeguard system was timely warning. If we want IAEA to fulfill its purpose it is up to us to define the agreements to insure that a close approach to weapons is a violation. That would not undermine our support of the IAEA. It would fulfill an essential condition for making it effective.

There are a number of fashionable measures at any time that are suggested to deal with this problem, and one of them, as you know, is the Multinational Center.

MULTINATIONAL CENTERS A SOURCE OF SPREAD, IF DEVOTED TO REPROCESSING

There may be important uses for multinational or IAEA centers—for example, for storing spent fuel, for making low enriched uranium, and so on. However, MNC's dedicated to reprocessing will tend to legitimize an activity that would be extremely dangerous, even if it were economic. Reprocessing now appears likely to be uneconomic, and it doesn't have the other virtues, it appears, that are generally claimed for it. It is of only modest utility in conserving resources and creates more problems than it solves in waste management. Most important, it would propagate plutonium at the very least in the form of unirradiated mixed oxide fuel; and that is easily and quickly convertible to bombs.

POWER REACTOR PLUTONIUM: AN EXPLOSIVE

But some question whether power reactor plutonium can be used in an explosive. In fact, the belief has been current since the dawn of the nuclear age that plutonium left in a reactor operated so as to produce power economically would be denatured, that is, spoiled as an explosive in the way that denatured alcohol under prohibition was supposed to be spoiled as a drink. Unfortunately this is not so. It is particularly misleading to assume that a well-equipped and manned laboratory of a sovereign state—as distinct from a small terrorist band—would not be able to make a very formidable nuclear explosive with power reactor plutonium. The continuing—if usually implicit—belief in denaturing has served to rationalize much of the carelessness about the readily fissionable material that would be generated in great quantities if plutonium recycling were to become general.

BASIC PROBLEM BROADER THAN POWER REACTOR PLUTONIUM

The problem, however, is broader than the stocks of separated plutonium entailed by plans to recycle plutonium in power reactors. A

variety of other now legitimate arrangements would permit nonweapon states to obtain control over readily fissionable material irradiated enough to be used in a clear explosive: Some proposed power reactors and a good many research reactors use highly enriched uranium in their cores. Many research reactors produce sizable amounts of rather easily separable plutonium and critical experiments for research on fast breeder reactors may involve several tons of bombs worth of highly enriched uranium or plutonium in metal form, and these are only very lightly irradiated. All of these civilian activities may be undertaken legitimately under valid agreements of cooperation. They would all provide the key hard-to-get prerequisite for making a bomb.

This trouble cannot be cured simply by improved inspection or by the other methods now proposed. In fact such cures, if we are not careful, have a perverse way of spreading the disease. Take the case of the sale of reprocessing plants or of separated plutonium under rigorous "safeguards." Even the most burdensome inspection will not assure timely detection of diversion well before bomb assembly since the separated plutonium that could be stocked legitimately under these arrangements could be rapidly made into explosives. Such sales, then, can bring governments very near bombs.

The fundamental need is to keep out of the hands of nonweapon States any fissile material readily convertible to explosives. If we don't do that then nonproliferation is a charade. The legislation you are considering would place important constraints on reprocessing plutonium, the plentiful source of explosive material. It would also require, for the first time, reports on the status of all readily fissionable material in civilian programs. It would, therefore, be a first long stride toward solving the fundamental problem I have discussed.

Mr. FRASER. Professor, we may have to interrupt for a moment. The House has a live quorum call under way so that I think this would be a good time to break. We will take a recess for about 10 or 12 minutes.

Mr. WOHLSTETTER. Fine.

[A short recess was taken.]

Mr. BINGHAM [presiding]. The committee will resume its session. Mr. Wohlstetter, will you proceed, please.

Mr. WOHLSTETTER. Mr. Chairman, I have been describing what I said was a fundamental problem and I would like to try to make that basic problem vivid by a comparison.

"NONWEAPON STATES" CLOSER TO AN EXPLOSIVE THAN UNITED STATES IN 1947?

Under the present rules, a nonweapon state can come closer to exploding a plutonium weapon today without violating an agreement not to make a bomb than the United States was in the spring of 1947, when the world considered us not only a nuclear power but the nuclear power. The plutonium bombs of the time were primitive in design and crated in knockdown form. The very bulky high explosives had to be glued together piece by piece with slow-drying adhesives to form an implosion system. The fusing and wiring circuits were much more primitive than those commercially available today, and even a skilled team would have required several days to put a weapon together. In

the spring of 1947, moreover, we had no skilled teams. Yet some believed our nuclear force to be the main obstacle to an adversary reaching the channel, and by others it was believed to be the backup for "atomic diplomacy." It should make suppliers thoughtful that their nuclear exports might bring a nonweapon state closer to exploding a plutonium bomb than the United States was in 1947.

NEAR-BOMB CAPABILITY AS A SWEETENER FOR REACTOR SALES?

I doubt that any members of the suppliers club would think of competing in reactor sales by actually offering bombs as "sweeteners." Some, however, do offer technologies that, as we see, can furnish a reasonable facsimile of a nuclear capability better than the 1947 vintage. And they can tell themselves as well as the world that such offers are legitimate since they are accompanied by the most rigorous "safeguards."

U.S. AMBIVALENCE

We object, but we don't formulate consistently or explicitly the principle which justifies the objection; namely, the principle that we shouldn't bring a nonweapon State so close to the bomb that it can go the rest of the way before we know or can do anything about it. Nor do we always act on such a principle.

Sometimes we do. The President stated last year that international safeguards are designed to provide timely detection of diversion. That principle would serve to establish that safeguards could not be effectively applied to some of the nuclear export deals made recently by France and the Federal Republic. Moreover, according to news accounts, we effectively opposed the purchase by Korea and Taiwan of French chemical separation plants. And we have prevented American exporters from exporting to nonweapon states chemical or isotope separation plants. On the same grounds, we have refused to publish details of the gaseous diffusion method of isotope separation, still the only proven method—and we use to refuse to license the export of uranium enriched to more than 20 percent in U235, whatever the inspection arrangements.

On the other hand, sometimes we don't. Apparently not all American officials, and evidently not the most important ones, firmly opposed the West German sale to Brazil in tones audible at the highest level of the German Government. Chancellor Schmidt told the press in June 1975, that he regretted criticism by U.S. journalists and politicians but that "he knew of no criticism by the U.S. Government." We get then the worst of both worlds: In the end we refused to supply reprocessing or enrichment facilities to the Brazilians, knowing that, though nominally civilian, such facilities could bring Brazil close to a bomb. But because we never formulated a coherent policy explaining that, it was easy for the Federal Republic to tell itself that we were simply sore losers in a business deal and that clinching the deal by giving the Brazilians a "sweetener" in the form of the principal ingredient of a nuclear explosive is perfectly all right.

The muddle began earlier. The U.S. Government was the principal sponsor of the International Atoms for Peace Conferences and in the very first conference declassified and published widely the technical

details of chemical separation technologies including the Purex process now most widely used. We contributed over half a dozen helpful papers on chemical reprocessing. Moreover, in spite of cumulating evidence during the past 10 years that recycling plutonium in light water or heavy water reactors is uneconomic, we've talked of recycling as if it were an essential for the future of nuclear electric power—which, in turn, we have often said is vital for the economic development of the less developed world.

We have recently made recycling of plutonium a "key initiative" in our energy conservation program. The NRC has shown no clear evidence that it considers the international consequences of recycling to be a factor in the U.S. decision to license recycling domestically. We did not object in the 1960's when such nonweapon states as Japan and the Federal Republic committed themselves to a start on reprocessing. As for uranium, some time in the 1960's our attention wandered and we began to ship highly enriched uranium to nonweapon countries. We appear to have shipped some 5 tons overseas—perhaps 300 bombs worth of readily fissionable material.

Let me depart even further from my prepared statement, with an example drawn from the past week or two, of our off-again, on-again policy toward nuclear activities that approach a bomb. This example has to do with a familiar extreme; namely, the so-called "peaceful nuclear explosive," or "plowshare." A peaceful nuclear explosive doesn't just approach a bomb—in all essentials, it arrives at it. Yet the State Department revealed a good deal of confusion and ambivalence on this matter, in its recent responses at NRC hearings, and in answer to some questions put by Senator Ribicoff.

NUCLEAR EXPLOSION BY INDIA

The Indians, as you know, detonated a nuclear explosive in 1975 using the Cirus reactor, which the Canadians gave to India for the conduct of solely peaceful research. It is less widely understood that U.S. heavy water was in the Cirus reactor and that there was an agreement between us and the Indians that they would only use our heavy water for peaceful purposes.

Whatever the legalisms, commonsense tells you that a nuclear explosive is a military device. Not only commonsense. Our representatives over a period beginning in 1966 have repeated just that: It is inconceivable that one can get a capability to detonate a nuclear explosive without arriving at a capability for nuclear weapons. Any nuclear explosive has obvious military implications.

Nonetheless, since 1974, we have gone through a good many contortions to make it seem to ourselves that the Indians didn't violate our peaceful use constraint. Recently we have made some extraordinary solemn statements that deny not only commonsense experience, but the laws of physics.

For example, the State Department said that the Indian reactor didn't have any of our heavy water in it when producing plutonium for the explosion, because it had leaked out or degraded, at the rate of 10 percent a year. Heavy water is an extremely expensive material and this particular use of heavy water is not at all likely to have resulted in anything like such a leak rate. Heavy water in the Cirus

reactor is used not as a coolant but only as a moderator. It is not under high pressure, and the Canadians, who supplied the reactor, and have had one just like it operating for many years, find the leak rate is nearly zero, not 10 percent.

But even if the heavy water leaked at the rate of 10 percent a year, it is absurd to suppose that our heavy water would be all gone in 10 years. Some 35 percent would be left. The Indians year after year presumably would have mixed some of their own heavy water with ours to replace the heavy water that had leaked and some of their heavy water would be leaking, too. There is a law of physics that says that when you add one such liquid to another, the molecules mix. But evidently we are to suppose that that would not be the case in India. In India, molecules apparently observe some sort of caste system, rather than the laws of physics. Our heavy water apparently was untouchable by Indian heavy water, and only ours leaked.

Perhaps, like myself, some of you have performed a physics experiment of putting some bourbon in a glass, and then adding water to it. After a while, you observe the two liquids are not in separate, compact layers. It seems they might be in India. There, the bourbon would be untouchable, the water would remain pure, and a teetotaler sipping a glass of bourbon and branch water might consume only pure branch water.

In short, we have been making some strange arguments in order to convince ourselves that the Indians didn't violate the agreement on the exclusively peaceful use of our heavy water when they used it to get plutonium for an explosive. We suggest that the molecules of the heavy water didn't observe the laws of physics, but instead some accounting principles such as "first in, first out." We go through such contortions to obscure inconsistencies in our policy. Nonetheless, it is clear that our policies in this field just don't fit together very well.

It is natural to hear in the bureaucracy that we can't now come out clearly against letting weapon states have access to stocks of readily fissionable material. We can't because we haven't always discouraged it in the past. Sometimes, in our harum-scarum way, we have even encouraged it.

But that sort of argument would make all mistakes, no matter how disastrous, hereditary. Since our past policies are inconsistent we should choose the ones that make sense, those that not only fit together but fit our purpose.

It is fair to say that there are a good many signs of movement in that direction in the Government, both in the executive department and in the legislature. One of the most important, I believe, may be the legislation you are considering.

Thank you, Mr. Chairman.

[The prepared statement of Prof. Albert Wohlstetter follows:]

PREPARED STATEMENT OF ALBERT WOHLSTETTER, PROFESSOR, UNIVERSITY OF CHICAGO AND CONSULTANT TO THE DIRECTOR OF THE ARMS CONTROL AND DISARMAMENT AGENCY

Mr. Chairman, I appreciate the opportunity to discuss with this Committee the potential spread of nuclear weapons that is permitted by present export rules. I would like to put in the record at this point the introductory chapter of a study of this problem that I recently concluded with several colleagues. The study is entitled "Moving Toward Life in a Nuclear Armed Crowd?" It was done for the

Arms Control and Disarmament Agency. My remarks today will be based in part on that study and also on some continuing work. I'll touch here on only a few points relevant to your current deliberations.

THE FUTURE SPREAD OF POWER REACTOR PLUTONIUM

In the past year the public has increasingly understood that the spread of civilian energy may bring with it a global spread of materials for making nuclear weapons. As of last year civilian nuclear power programs meant that some forty countries by 1985 would have several bombs-worth of separable plutonium and nearly half of these countries were planning a capacity to separate at least that much plutonium. Most of these programs are going forward under agreements for nuclear cooperation that restrict transfer of technology, equipment, or materials to peaceful uses only. The exporting and importing countries in most cases are parties to the Non-Proliferation Treaty and as such have agreed not to offer or receive help in making bombs.

GETTING CLOSE TO THE BOMB WITHOUT PLAINLY VIOLATING THE RULES

It is less widely understood that the non-weapon states that have agreed not to make a bomb can come very close to making a bomb without violating the agreements or the treaty. And the suppliers who under the NPT promise not to assist non-weapon states in any way in getting nuclear weapons are nonetheless not precisely and explicitly prohibited from exporting facilities and materials that might bring an importing country to within a few days or even hours of a capability to explode the bomb. This is the problem the legislation you are considering addresses. It is a very important problem, one that is hardly ever faced, and one that has eluded solution so far.

SAFEGUARDS AGAINST VIOLATION NO BAR TO GETTING CLOSE WITHOUT VIOLATION

Suppliers of plants that separate fissile material frequently say, correctly, that the facilities they propose to supply will be subject to international inspection arrangements at least as stringent as any provided for currently. This may suggest that such safeguards would make the safeguarded activities safe. They would not. Not if the activities involved result in stocks of separated plutonium or highly enriched uranium.

The IAEA inspection system is designed to see that agreements under IAEA inspection are not violated, that materials are not "diverted" and that the limits of error of material unaccounted for are kept small. I have the greatest respect for the competence and good sense of Dr. Rudolph Rometsch, the IAEA Inspector General, who oversees the system. However, whether or not such a system will provide early warning depends on the nature of the agreement, which is monitored, on what is excluded and what is permitted. If nuclear export agreements are formulated so loosely as to make it perfectly legal to accumulate stocks of plutonium in a form days or hours from insertion in a nuclear explosive, then no search for violation of the agreement, no matter how diligent and "tight," will provide early or timely warning. If we want to make IAEA inspection arrangements serve the essential purpose of warning, it is up to us to define the agreements so that a close approach to weapons is a violation. That would not undermine our support of the IAEA. It would fulfill an essential condition for making it effective.

MULTINATIONAL CENTERS (MNCS) A SOURCE OF SPREAD, IF DEVOTED TO REPROCESSING

There may be important uses for multinational or IAEA centers—for example, for storing spent fuel, for making low enriched uranium, and so on. However, MNCs dedicated to reprocessing will tend to legitimize an activity that would be extremely dangerous, even if it were economic. Reprocessing now appears likely to be uneconomic, of only modest utility in conserving resources and to create more problems than it solves in waste management. Most important, it would propagate plutonium at the very least in the form of unirradiated mixed oxide fuel; and that is easily and quickly convertible to bombs.

POWER REACTOR PLUTONIUM: AN EXPLOSIVE

The belief has been current since the dawn of the nuclear age that plutonium left in a reactor operated so as to produce power economically would be de-

natured, that is s[illegible]d as an explosive in the way that denatured alcohol under Prohibition was supposed to be spoiled as a drink. Unfortunately this is not so. It is particularly misleading to assume that a well-equipped and manned national laboratory of a sovereign state (as distinct from a small terrorist band) would not be able to make a very formidable nuclear explosive with power reactor plutonium. The continuing (if usually implicit) belief in denaturing has served to rationalize much of the carelessness about the readily fissionable material that would be generated in great quantities if plutonium recycling were to become general.

BASIC PROBLEM BROADER THAN POWER REACTOR PLUTONIUM

The problem, however, is broader than the stocks of separated plutonium entailed by plans to recycle plutonium in power reactors. A variety of other now legitimate arrangements would permit non-weapon states to obtain control over readily fissionable material unirradiated enough to be used in a nuclear explosive: some proposed power reactors and a good many research reactors use highly enriched uranium in their cores. Many research reactors produce sizeable amounts of rather easily separable plutonium and critical experiments for research on fast breeder reactors may involve several tons of bombs worth of highly enriched uranium or plutonium in metal form, and these are only very lightly irradiated. All of these civilian activities may be undertaken legitimately under valid agreements of cooperation. They would all provide the key hard-to-get prerequisite for making a bomb.

This trouble cannot be cured simply by improved inspection or by the other methods now proposed. In fact such cures, if we are not careful, have a perverse way of spreading the disease. Take the case of the sale of reprocessing plants or of separated plutonium under rigorous "safeguards." Even the most burdensome inspection will not assure timely detection of diversion well before bomb assembly since the separated plutonium that could be stocked legitimately under these arrangements could be rapidly made into explosives. Such sales, then, can bring governments very near bombs.

The fundamental need is to keep out of the hands of non-weapon states any fission material readily convertible to explosives. The legislation you are considering would place important constraints on reprocessing plutonium, the most plentiful source of explosive material. It would also require, for the first time, reports on the status of all readily fissionable material in civilian programs. It would, therefore, be a first long stride toward solving the fundamental problem I have discussed.

NONWEAPON STATES CLOSER TO AN EXPLOSIVE THAN UNITED STATES IN 1947?

The problem can be made vivid by a comparison. Under the present rules, a non-weapon state can come closer to exploding a plutonium weapon today without violating an agreement not to make a bomb than the United States was in the spring of 1947, when the world considered us not only a nuclear power but the nuclear power. The plutonium bombs of the time were primitive in design and crated in knockdown form. The very bulky high explosives had to be glued together piece by piece with slow-drying adhesives to form an implosion system. The fusing and wiring circuits were much more primitive than those commercially available today, and even a skilled team would have required several days to put a weapon together. In the spring of 1947, moreover, we had no skilled teams. Yet some believed our nuclear forces to be the main obstacle to an adversary reaching the Channel, and by others it was believed to be the backup for "atomic diplomacy." It should make suppliers thoughtful that their nuclear exports might bring a non-weapon state closer to exploding a plutonium bomb than the United States was in 1947.

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I doubt that any members of the suppliers club would think of competing in reactor sales by actually offering bombs as "sweeteners." Some, however, do offer technologies that, as we see, can furnish a reasonable facsimile of a nuclear capability better than the 1947 vintage. And they can tell themselves as well as the world that such offers are legitimate since they are accompanied by the most rigorous "safeguards".

U.S. AMBIVALENCE

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Sometimes we do. The President stated last year that international safeguards are designed to provide timely detection of diversion. That principle would serve to establish that safeguards could not be effectively applied to some of the nuclear export deals made recently by France and the Federal Republic. Moreover, according to news accounts, we effectively opposed the purchase by Korea and Taiwan of French chemical separation plants. And we have prevented American exporters from exporting to nonweapon states chemical or isotope separation plants. On the same grounds, we have refused to publish details of the gaseous diffusion method of isotope separation, still the only proven method, and we used to refuse to license the export of uranium enriched to more than 20 percent in U235, whatever the inspection arrangements.

On the other hand, sometimes we don't. Apparently not all American officials, and evidently not the most important ones, firmly opposed the West German sale to Brazil in tones audible at the highest level of the German government. Chancellor Schmidt told the press in June, 1975, that he regretted criticism by U.S. journalists and politicians but that "he knew of no criticism by the U.S. Government." We get then the worst of both worlds: In the end we refused to supply reprocessing or enrichment facilities to the Brazilians, knowing that, though nominally civilian, such facilities could bring Brazil close to a bomb. But because we never formulated a coherent policy explaining that, it was easy for the Federal Republic to tell itself that we were simply sore losers in a business deal and that clinching the deal by giving the Brazilians a "sweetener" in the form of the principal ingredient of a nuclear explosive is perfectly all right.

The muddle began earlier. The U.S. Government was the principal sponsor of the International Atoms for Peace Conferences and in the very first conference declassified and published widely the technical details of chemical separation technologies including the Purex process now most widely used. (We contributed over half a dozen helpful papers on chemical reprocessing.) Moreover, in spite of cumulating evidence during the past 10 years that recycling plutonium in light water or heavy water reactors is uneconomic, we've talked of recycling as if it were an essential for the future of nuclear electric power (which, in turn, we have often said is vital for the economic development of the less developed world).

We have recently made recycling of plutonium a "key initiative" in our energy conservation program. The NRC has shown no clear evidence that it considers the international consequences of recycling to be a factor in the U.S. decision to license recycling domestically. We did not object in the 1960's when such non-weapon states as Japan and the Federal Republic committed themselves to start on reprocessing. As for uranium, some time in the 1960's our attention wandered and we began to ship highly enriched uranium to non-weapon countries. We appear to have shipped some five tons overseas—perhaps 300 bombs worth of readily fissionable material.

CONCLUSION

In sum, our policies in this field don't fit together very well. It is natural that we should hear in the bureaucracy that the United States cannot come out clearly now against permitting access by non-weapon states to stocks of readily fissionable material, since we have not in the past and sometimes have even encouraged it. But that point of view would make all mistakes, no matter how disastrous, hereditary. Since our past policies are inconsistent, we should choose the ones that make sense, those that not only fit together but fit our purpose.

It is fair to say that there are a good many signs of movement in that direction. One of the most important, I believe, may be the legislation you are considering.

LEGISLATIVE PROPOSALS

Mr. BINGHAM. Thank you very much, Mr. Wohlstetter.

Do you have specific proposals for us with regard to the Export Administration Act, the extension of which we are now considering?

Mr. WOHLSTETTER. Mr. Bingham, I do not. I was asked to testify here about some legislation that the committee or members of the committee have been considering and which I have looked at and will continue to look at more carefully.

I have just flown in from Europe and can't quite believe that Washington, D.C. clocks are correct. I will look at the legislation and, if you like, give you further comments on it. But what I can say now is that this legislation seems to me nearly unique in that it does at least address the problem which we have been sporadically recognizing and then quickly ignoring for some years: That it is possible within the present rules for nonweapons states to come closer and closer to an ability to explode nuclear weapons without warning.

Mr. BINGHAM. Thank you.

Mr. Findley.

Mr. FINDLEY. Professor Wohlstetter, I think you had reference to an amendment that is prepared and about which some testimony has already occurred, an amendment that I had drafted and that Mr. Zablocki, Mr. du Pont, Mr. Lagomarsino, and several others have indicated their support for. I am gratified to see you describe it as an important step.

Mr. WOHLSTETTER. I have had a chance to read it, but not study it.

Mr. FINDLEY. How would you characterize its significance?

Mr. WOHLSTETTER. Well, I think it is the largest step that has been undertaken for a long time, and that is certainly meant as a compliment, because I think we do have to take steps.

If there is anything I can think of that would help it further, why, I will be very glad to suggest it.

RELIABLE TIMELY WARNING

Mr. FINDLEY. "Reliable timely warning" is a phrase that appears in this amendment of mine, and it appears to be the key to effective nuclear safeguards. Would you comment on why that is so, if you believe that is so?

Mr. WOHLSTETTER. Yes, sir, I certainly do. The question of warning has been implicitly the most important issue in international control from the very start of the nuclear age. It was what was debated most extensively by Dean Acheson, David Lilienthal, Bernard Baruch, and their colleagues when the United States was forming its initial policy on international control of nuclear energy. They recognized that at the time, there was a lot of discussion about trying to have rigorous explict collective sanctions built into the control system. There was disagreement on this between Mr. Baruch and Mr. Acheson, for example, but there was no disagreement on the importance of warning. Moreover, when people were talking about warning at that time, they meant 2 to 3 years.

The essential point is that, if you don't have a warning, you might as well abandon the notion of having even informed individual sanctions, much less formal collective penalties. If you are going to be able to have the members of a treaty do anything about a violation, they have to know about the violation. If they are going to deter a violation, they have to know about it before it happens. If you don't have warning, what do you have?

You simply reminisce. In fact, one of our officials involved in these latest Indian negotiations and discussions before the NRC, is on record saying even if we learned about the bomb after it was assembled and stockpiled it would be better than nothing.

That is certainly a very cheery Pollyanna view, of the matter. But it can't be taken seriously as the basis for a policy to discourage proliferation. For that purpose, timely warning is of the essence.

The President said as much in May of last year in a message to Congress about international safeguards. Dr. Rometsch, the Inspector General of IAEA, has said the same, in several articles, and the IAEA Information Circular 153 makes that timely warning the principal objective of the safeguards system. All we have to do now is to take it seriously.

Mr. FINDLEY. Our Government doesn't even pretend now that it has a timely reliable warning system. I would assume that is the case, would you?

Mr. WOHLSTETTER. Perhaps the verb "pretend" is accurately chosen. I think our Government does talk frequently as if we had such a warning system. Some activities safeguarded are a long way from bomb manufacture. They might yield a timely warning. If the sort of violations that are contemplated actually leave a very long amount of time between the violations and the possibility of bomb assembly, why we might detect it in time. There are such activities.

On the other hand, it is plain that when we permit the stocking of plutonium metal—as we do—couldn't count on anything like a timely warning.

Mr. FINDLEY. Would you comment on how the concept of a warning period expressed in this amendment would differ from Government policy?

Mr. WOHLSTETTER. Well, that is a part of the amendment that I would like to study so I can give you just my off-the-cuff reaction.

I think the amendment differs from the present practice in that instead of just talking vaguely about timely warning, letting everybody decide what that is in his own terms, it tries to fix a period, and the period chosen happens to be the same as the one that is mentioned in the Non-Proliferation Treaty as the withdrawal period for members of the NPT if they find that reasons of supreme national emergency dictate their withdrawing from the treaty.

I would imagine that in the case of several of the members states it would in fact be a supreme national emergency to learn one of its neighbors was about to get a bomb. So they would like to have at least that much notice of it.

I believe that the amendment would plainly eliminate a good many of the most dangerous exports that we are talking about.

NUCLEAR ELECTRIC POWER

I want to make clear—and perhaps from my short introductory statement it is not clear enough—that I am by no means, an opponent of all nuclear electric power. In fact, I regard it as a great misfortune that the debate tends to be between extremes as if there were no choice in between—Squeaky Fromme and the rest of the Manson family who want to stop nuclear electric power cold, on the one hand, and

on the other, the least thoughtful members of the various nuclear industry trade associations. Some members of the industry, feeling embattled by those who oppose every form of nuclear electric power, seem to support every form of nuclear power, no matter how dangerous and how little economic.

I think it is obvious that we are going to have both fossil fuel and nuclear fuel used for some time to come. Our problem is to find a way to pick a path through a kind of mine field. Finding this path means figuring out ways of keeping readily fissionable material out of the hands of nonweapon states, while fulfilling our civilian energy demands.

I think we can do that, but only if we have a map and only if we are clearheaded.

Mr. FRASER [presiding]. Mr. Ryan.

Mr. RYAN. Pass.

Mr. FRASER. Mr. Whalen.

Mr. WHALEN. I was just discussing some questions with our staff expert here.

Professor Wohlstetter, I certainly appreciate your comments.

EFFECT OF AMENDMENT ON OTHER NUCLEAR POWERS

The one thing that concerns me is that if we adopt the pending amendment that it still has no bearing or no relationship upon other nuclear powers; is that correct?

Mr. WOHLSTETTER. It is clear that the U.S. Congress can't legislate for the Federal Republic of Germany, for example. While that is true, it would be a great mistake to believe that the actions taken by the United States don't have a very large effect on the Federal Republic and on the other supplier countries and on the importing countries.

If we do go through the contortions to avoid exercising sanctions that I described in the Indian case, we reduce our influence generally. Our ambivalence may not be widely understood in the United States—but, on the basis of talks that I recently have had in England and in Germany and in Vienna, I'd say it is pretty widely understood outside the United States. If we indicate that we are really not very serious about these agreements constraining nuclear cooperation to peaceful use, we will not be taken seriously. We are not taken seriously by other supplier countries, and we are not taken seriously by the importing countries. And no matter what fine words we utter against proliferation, we don't really exercise any influence.

But this, which sounds like simple commonsense, goes against the grain of the usual argument in the bureaucracy. The usual argument in the bureaucracy is to say we shouldn't exercise sanctions against violations because we really don't have any leverage; if we don't continue cooperation, then inevitably the French or the Germans will—the French and Germans are very convenient bad guys in the nuclear trade. There is always an argument for not doing anything ourselves.

In fact, the general argument is made also that if we use our leverage, we will lose all leverage over the importing countries, the ones to which we export nuclear materials or technology. You might ask how will we lose our leverage if we exercise it?

That is the point. We have some leverage. That is one of the things we always point out when we ask for a license for an export sale. If the customer violates the agreement, we say we can always withhold enriched uranium fuel reloads. When, later, one might say, all right, he violated the agreement, let's use our levearge, then we are told that if we do that, we will lose our influence.

In other words, on this sort of argument, you can have leverage only if you never use it.

My own observation is that we have many ways of influencing other suppliers as well as the importing countries. In the case of suppliers, the point is that, like ourselves, they have an interest in the net gain from unsubsidized trade. But we shouldn't exaggerate what the benefits of these are. Reactor sales are large. They haven't been, so far, very profitable, but they are large in gross value. But sales of reprocessing equipment are small. They are a very tiny fraction of the reactor market.

It is also true that other suppliers, like us, have an interest in seeing that the world order doesn't deteriorate drastically as it would if a great many countries get nuclear weapons. Supplier countries get worried especially about a spread nearby—though they should worry about some a little farther away, too.

In France, recently, there has been a strong interest in what is going on in the Spanish nuclear program. The Spaniards are getting an awful lot of plutonium, and we have licensed them to get some of the plutonium separated for purposes that are not very precisely delineated. The French are interested in that. Spain happens to be rather close to the French, and they are kind of interested in whether at least their neighbors have nuclear weapons or not.

I think there are common interests that we have with the suppliers in avoiding this sort of absurd competition using bombs as sweeteners. But, to make these common interests clear to them we have to be clear about it ourselves.

IMPORTANCE OF NUCLEAR ELECTRIC POWER TO ECONOMIC DEVELOPMENT

Mr. WHALEN. Professor, the shipments are justified on the grounds that the developing country needs them in order to expand its output.

I noticed, on page 8, you made this comment. "The future of nuclear electric power * * *" and, then, parenthetically, you noted "which, in turn, we have often said is vital for the economic development of the less developed world * * *" are you suggesting here, or implying here, that this is not the case?

Mr. WOHLSTETTER. Yes, I certainly am implying that. The reason for skepticism here is well known. It has been brought out in quite a few studies recently, and I think it was understood really at the start by some very able economists.

The point is that nuclear electric power, where it is economic, is economic in very large economy sizes, in 1,000-megawatt electrical reactors. That sort of size is the kind of reactor we are putting out.

In fact, as I recall, our own manufacturers no longer make anything smaller than 500- or 600-megawatt electrical reactors. But developing countries tend to have very small power grids and, if they get large reactors, their reactors tend to be down a good deal of the time.

Take the Indian power reactor. At the very beginning the Indians were making nuclear versus fossil fuel comparisons, in which they assumed nuclear reactors would operate at 80 percent of capacity for 20 or 30 years. In fact, the Tarapur reactors have operated only 45 percent of the time. They are twin 190-megawatt reactors. Future reactors planned are much bigger.

There is a second reason, nuclear power is not economic for less developed countries—I say generally, not invariably—because there are some cases where you have actually a very concentrated demand. But the second reason is that nuclear electric power is very capital intensive, and capital is very short in the less developed countries. The real rate of interest in less developed countries is generally much higher than in the developed ones like our own, and it makes nuclear power an implausible choice on that ground for less developed countries.

When you go over the matter very soberly, I think you find most of these nuclear programs projected by less developed countries are not economic. In many cases it is hard to believe that they are seriously intended to be economic.

The Pakistan program for reprocessing for a heavy water natural uranium reactor is really rather absurd. A heavy water reactor doesn't need a substitute for enriched uranium. It runs on natural uranium. Reprocessing of light water reactor fuel on a larger scale in advanced countries looks uneconomic. On a small scale, it would be worse.

And the reprocessing of a heavy water reactor fuel is even more expensive than reprocessing spent light water reactor fuel because the plutonium in it is much more dilute.

On such grounds it seems obvious in the case of the Pakistanis that their interest in reprocessing, like that of the Indians, has to do with an interest in nuclear explosives. You can see why they have such an interest. Because of the peaceful nuclear bombs the Indians exploded, for one thing. Prime Minister Bhutto, when he was Foreign Minister, said, "We will eat grass if necessary," to match the Indians. Now he says he is not interested in nuclear weapons. I think that, with all due respect, that has to be taken with a grain of salt.

I hope that answers your question on the less developed countries.

Mr. WHALEN. Yes.

Thank you, Mr. Chairman.

Mr. FRASER. Mr. Solarz.

Mr. SOLARZ. Thank you, Mr. Chairman.

Professor, I am relatively new to this field, and lacking background in physics or technology of nuclear development, it has been somewhat difficult for me to completely grasp the nuances and implications of a number of your observations.

USEFULNESS OF TIMELY WARNING

But let me begin by asking what the practical advantages of the timely warning are, if, in fact, the country has the capacity to make nuclear weapons? What can we do with this advanced knowledge? What can we do about it?

Mr. WOHLSTETTER. Well, for one thing, if you know that they might be about to do this, you might tell them to stop. And you might tell them what you will do if they don't stop.

If you say that in advance, you have some chance of deterring it. On the other hand, if you don't learn about it until after it has happened, the whole tendency in all bureaucracies, not only our own, is to think of ways of adjusting to the fait accompli.

You may ignore the warning, but at least it gives you the possibility of action. Without it you don't have any.

POTENTIAL NUCLEAR POWERS

Mr. SOLARZ. You indicated in your testimony a number of countries now have the capacity within the framework of the existing rules and regulations which govern these various nuclear procedures to make nuclear weapons more easily than we could make them in 1947.

To the extent that that is the case, how quickly could the countries you have in mind put together a nuclear weapon once they made the decision to do so?

Mr. WOHLSTETTER. Let me make clearer, perhaps, than I did what I intended.

What I wanted to say, and hope I said, was not that all these countries now have the capability of assembling a bomb within a few days, but that, according to the present rules, with the sort of constraints on peaceful use that we have introduced into our agreements, by 1985, many can acquire such a capability without plainly breaking the agreement.

Mr. SOLARZ. Have any countries, to your knowledge, acquired that capability that are not already members of the nuclear club?

Mr. WOHLSTETTER. Several of them have gotten considerably further, have gone closer than they were to start with. But some judgments of a classified sort are necessary on exactly how far down the road specific countries have gone. That isn't really relevant for my purpose here today.

My purpose is to say that we want to close off that path. If we allow countries to go so far down the path to nuclear weapons that the remainder of the way is very short, it won't take much of an impulse to go the rest of the way. And we want to prevent that.

LENGTH OF TIMELY WARNING PERIOD

Mr. SOLARZ. To be adequate, how long would the timely warning period have to be in your judgment?

Mr. WOHLSTETTER. Well, adequate is a difficult word for me to evaluate here. I would like years, the way people originally wanted it, but I certainly think you could do a good deal with a clear 3 months of warning.

U.S. LEVERAGE

Mr. SOLARZ. Have you thought at all in very practical terms about the kind of political pressures or threats or inducements that we could conceivably make or offer in a situation where we obtained timely warning and felt it was not in the interest of ourselves or the rest of the world to permit this development to take place?

Mr. WOHLSTETTER. Yes; I have thought some about it, I would like also to make sure that we don't limit our considerations to the last 90 days when thinking about possible actions we might take. We should

think of the time when we discover people are preparing their nuclear programs so as to come that close, or to come even closer. We may have a client state or a trading partner who we see is doing that. In some cases there are such. We should try then to make it clear that if they proceed with programs it will be at some cost.

Looking back at a great many of the cases, country-by-country, I think that we have always had a good deal of leverage even while we were saying we didn't.

In the case of India, for example, there was substantial evidence in the mid-1960's that they were planning a nuclear explosion. We had just concluded a loan, which was one of the premium loans of all times, a 40-year loan, 10-year grace period, three-quarters of 1 percent interest, for the Tarapur reactor.

That sort of loan is the kind of thing you and I would find hard to get and India would find hard to get on the international finance market. We could definitely at that time have said that if you don't clearly abandon the idea of getting a nuclear explosive we are going to cut off the Tarapur technical and economic aid and other assistance as well.

The Canadians were in much the same position as we, and up to recently were as dilatory as we.

Mr. SOLARZ. Let me ask one final question, because I know other members of the committee have questions as well.

I am troubled by a system which ultimately relies on the independent determinations of other nation states with respect to what is in their own interest. Without in any way wanting to diminish the potential significance of pressures we might apply to the extent that the genie is out of the bottle and countries may decide for their own reasons to develop a nuclear capacity anyway, it seems to me we have a potentially very troublesome situation.

RESTRICTION ON NUCLEAR EXPORTS

Would it at all make sense to enact legislation which goes beyond a limitation on what we can export in terms of whether or not the Secretary of State, or the President, can certify that a system exists which would give us timely warning with respect to whether or not the country in question was planning to develop a nuclear capacity? Could we consider enactment of legislation which would prohibit the export of any materials which would make it possible if a country determined that it wanted to develop nuclear weapons to actually develop them?

Mr. WOHLSTETTER. I think you have to mention a time period in there for the development of nuclear weapons. There are any number of things that a country can do which would advance it a little further along the way. But there still may be a long way left. When they send engineers to study at Argonne Laboratory, at the University of Chicago, they are learning some things about nuclear reactions. They are learning some things about the cross sections of the various heavy elements and so on. This is some help to them.

I think that it isn't practical to cut off nuclear exports or all nuclear technical cooperation. That is a nonstarter at this date.

I think you have to try to restrict some kinds of exports, under certain conditions, to institute some constraints. That is the reason that I said that. I don't want to suggest it is only the United States that can act under these circumstances. Other countries have an interest in acting too.

I have no delusions that we are such rapid actors, as my testimony suggested.

NONPROLIFERATION TREATY

But, after all, other countries have joined the NPT. There are about 100 of them. They are relying on a promise that their neighbors aren't going to acquire nuclear weapons. I think that is the most important reason for their joining.

There is a lot of nonsense to the effect that the only reason they joined is because we promised to give them nuclear aid. Thinking in those terms is one of the ways of spreading the disease rather than curing it. Only interpretation of the NPT assumes that in return for a highly revocable promise not to make nuclear weapons, we promise to bring nonweapons very close to that capability. I don't think that is a tenable interpretation. They join primarily because they don't want their neighbor to get a bomb.

On the other hand, countries will have a very strong motive to come close to a bomb, if they believe that one of their neighbors is going to get within a week of a bomb. They they themselves may feel, "We will have to come within a week of a bomb, too." Then you are going to have an awful lot of countries poised watching their neighbors. If they are engaged in a nonnuclear war with neighbors and one or both are poised close to a bomb, you might have a very catastrophic result—the sudden transformation of the war into a nuclear war.

Even if we put aside potential U.S. action, we should think about the effect on other governments who are relying on a neighbor's promise not to make nuclear weapons, and what they might do if their neighbors break the promise.

Mr. SOLARZ. Thank you, Mr. Chairman.

Mr. FRASER. Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

Professor Wohlstetter, many once thought if a country committed itself to the NPT the problem was fairly well solved. Now, apparently thinks look somewhat different.

Is it the case, perhaps, that what the nuclear proliferation treaty really did was to create somewhat of a false sense of security?

Hasn't it, in effect, provided a facade behind which countries legitimately could demand and acquire materials and place them only a few weeks away from a nuclear weapons capability?

Mr. WOHLSTETTER. I do think and felt at the time that while the Non-Proliferation Treaty had its uses, it might indeed provide a false sense of security. It is loaded with an extraordinary number of contradictory positions, and if we are not wary, member states can easily pervert its purpose of preventing the spread of weapons.

On the one hand, nonweapons states agree not to acquire or accept any assistance at all in acquiring nuclear weapons. Other countries agree not to offer any such assistance—any assistance whatsoever.

On the other hand, another article of the treaty says that all parties to the treaty undertake to facilitate the fullest possible exchange of nuclear equipment, materials and information for peaceful purposes. You can't really make those two clauses fit together very well.

It is true that some member states emphasize only the clauses that suggest the importance of receiving the fullest possible exchange of nuclear technology. There is a marvelous phrase in that article; it refers to the "inalienable right" of all the parties to the treaty to use nuclear energy. It uses the language of natural rights from 18th century law as in our own Declaration of Independence, life, liberty and the pursuit of plutonium.

That part of the NPT—loosely interpreted—has tended to spread the disease, to bring countries closer to the bomb. That is the reason that the report to ACDA, whose first chapter I have put in the record, begins with a quotation from Florence Nightingale, "Whatever else hospitals do, they should not spread disease." In fact, a good many of the cures that have been proposed have spread the disease.

IMPORTANCE OF NUCLEAR TECHNOLOGY TO ECONOMIC DEVELOPMENT

Mr. GILMAN. How do we answer the developing countries who argue that it is unjust for us to impede their economic development by denying them access to certain portions of nuclear technology?

Mr. WOHLSTETTER. That is a very important question. It is likely to appear more important in the future, given the north-south confrontations that we have been seeing and given the interesting fact that, contrary to earlier predictions of spread, the more imminent dangers of the spread now appear not in the big industrial countries but in small or less developed countries. That is the way it looks today.

I am thinking of South Korea, Taiwan, Pakistan. There is a considerable list—Brazil, Argentina. So, you are going to be faced with a new north-south problem.

I think the only way to help less developed countries develop is to offer cooperation, investment, trade, or aid critically—with some exercise of judgment on our part as to what programs are likely to succeed. That was supposed to happen in our economic assistance programs. Ideology always suggested steel mills or petrochemical plants or other spectaculars were essential for economic development even where they actually held development back. But in most fields we did make our own judgment, as to the economics. Not always correctly, but we did make our own judgment.

For example, we refused to support the Government steel plant in India in the early 1960's, and we were right. It has been an uneconomic operation, compared with the way the steel industry has proceeded in, say, Japan. Unfortunately, in the field of nuclear aid we haven't in general exercised that sort of critical judgment. We have been enthusiasts. Atomic energy agencies here and abroad have had charters to "accelerate and enlarge the contribution of nuclear energy," rather than to help less developed countries make the soundest development choices.

I think nuclear energy has a role, but we should not look at nuclear energy as the royal road to development. We'll have some arguments.

But I think the only course for us is to not be frightened by bad arguments for nuclear energy as a magic key, but to advance sound arguments for whatever paths we think are best.

Mr. GILMAN. Would all nuclear technology be as critical to the development as we once thought?

Mr. WOHLSTETTER. No; I really don't think that is true at all. There was much rhetoric suggesting that nuclear technology was the key modern technology for economic development. A lot of this rhetoric accompanied the atoms for peace program. We talked about nuclear power for the "power starved" Third World, a so-called "Kilowatts for Hottentots" program, and we distributed research reactors at all sorts of odd places. The sorts of technology which have been central in the recent development of places like Japan, South Korea, and so on, are quite different sorts of technology, for example, the technologies of solid-state physics, or microelectronics.

I don't think that there is any evidence that nuclear energy has the key role to play in economic development.

For the reasons I have suggested, it can actually, by comparison with alternatives, hold these countries back.

PROLIFERATION POTENTIAL OF NUCLEAR EXPORTS

Mr. GILMAN. And what about nuclear exports; are all nuclear exports equally dangerous in their proliferation potential?

Mr. WOHLSTETTER. No; I certainly don't think they are all equally dangerous. Light water reactors, for example, aren't very dangerous if they don't use recycled plutonium. I see no reason to subsidize a power reactor sale by giving it financing more favorable than we give our own domestic reactor users, the utilities. But a reactor if we can make a profit on it, seems to me to be a reasonable thing to sell. If we have some interest in the welfare of the purchasers we ought also to try to adapt our sales to their reasonable demands. It is clear that there are countries today that can use nuclear reactors economically. And these are not dangerous in the same way that a reprocessing plant is because the fuel that these reactors use is not explosive.

In light-water reactors we use uranium enriched to 3 or 4 percent. You can't explode that.

Moreover, the spent fuel from these reactors is not an explosive so long as the plutonium isn't separated from it. So I think that they are relatively safe sales and ones that also sometimes may make economic sense, for importers and exporters. Those are the ones that we should concentrate on.

Mr. GILMAN. Thank you, Professor.

Thank you, Mr. Chairman.

Mr. FRASER. Mrs. Meyner.

Mrs. MEYNER. Thank you.

Professor Wohlstetter, I would like to commend you for a very interesting and informative presentation and discussion.

RECYCLED PLUTONIUM FOR THE BREEDER REACTOR

Is it necessary for us to begin to recycle plutonium now in order to do advance work on the breeder reactor?

Mr. WOHLSTETTER. I think not. This is an argument you will hear a good deal about but the breeder is not here now and we don't have to recycle plutonium in light water reactors to do research and development on the breeder. If the breeder comes, it will be of commercial importance essentially in the 21st century. It is a long way off. If and when the first breeder using plutonium comes, then there will be recycling, and there will be a great deal of plutonium spread around. That is one of the reasons why we should consider the breeder soberly. We shouldn't rush into it.

If we decide to recycle in light water reactors, that decision will have an impact very early.

Mrs. MEYNER. Some people seem to feel the breeder reactor is the wave of the future.

Mr. WOHLSTETTER. Well, I know a lot of people feel that.

Mrs. MEYNER. It may not be true?

Mr. WOHLSTETTER. It may not. Part of the trouble in this field is that you have very extreme advocates on both sides. I think that deciding on the breeder shouldn't be a subject for romance. It should be the subject for cold calculation. And we have a lot of time to resolve uncertainties about the breeder.

ESCALATING COSTS

I can mention just one uncertainty that isn't frequently discussed; it is related to our subject. I mentioned that reprocessing for light water reactors turned out to be much more expensive than anybody expected.

In fact, the estimated cost to reprocess light water reactor fuel increased by about an order of magnitude in a decade. We had enormous trouble. The nuclear fuel services plant in West Valley, N.Y., is now shut down. The Morris, Ill., plant of GE never got into operation; they had to walk away from it. The huge plant that is being erected in Barnwell, S.C., has run into many difficulties; the costs have escalated.

The same thing has happened in Europe. Eurochemic shut down and at Windscales the English had trouble with the front end when they tried to reprocess light water reactor fuel, and have stopped.

Moreover, I have just heard, only this morning, that the Tokai-Mura plant in Japan is being deferred again. The Japanese haven't got the plant started. The reason for all this is that people had thought of reprocessing on the analogy of the separation of plutonium for bombs from production reactors. Well, the production reactors don't irradiate the fuel very much. The fuel was much simpler in the form of metal rather than oxide, and with much simpler cladding. Reprocessing turned out to be a completely different problem when you were dealing with zirconium alloy clad fuel irradiated for 20,000 or 30,000 megawatt days per ton—an order of magnitude more irradiation than in the production reactor.

Now, in the breeder, you are talking about irradiating fuel rods perhaps for 100,000 megawatt days per ton. Nobody really knows what the problems are going to be for that. There are lots of other uncertainties. In a situation where there are great uncertainties one should decide things one at a time as the various uncertainties are resolved.

You shouldn't vote for it or commit yourself to it or try to contract in or get the Government contracted in. The breeder is a good case for deferring final decision—even apart from its serious proliferation potential.

Mrs. MEYNER. Thank you.

PROHIBITING EXPORT OF REPROCESSING PLANTS

To follow through on Congressman Whalen's question, wouldn't a prohibition on the export of reprocessing plants simply mean that recipient countries would look to other countries for this construction and, somehow, shouldn't this problem be viewed from an international perspective, or would that take too long?

Mr. WOHLSTETTER. I think the answer is that it really has to be looked at from an international perspective. We don't ship out reprocessing plants. We never have. In my view, that is to our credit.

The French and the Germans are in the market for selling reprocessing plants at this point; the French in particular. So, obviously, we have to talk with the French. But then we have to be able to explain ourselves more lucidly, than I think we have. We have to explain why reprocessing is in a different status from the sale of a reactor. We need a coherent explanation of why it is all right to sell one and not the other. And I think that we have, on the whole, responsible trading partners and competitors. Like ourselves, they are somewhat muddled, but not beyond redemption.

REGIONAL REPROCESSING CENTERS

Mrs. MEYNER. What are your feelings—what is your opinion of Secretary Kissinger's proposal for regional reprocessing centers?

Mr. WOHLSTETTER. I mentioned that briefly in my statement. I am not against multinational centers, but I think that in the form in which they were originally proposed, as multinational regional reprocessing centers, that they would be a disaster; they would spread the disease, not cure it. I am against multinational reprocessing centers, but not against multinational centers for other purposes.

Mrs. MEYNER. Do you think the administration is becoming more aware of that problem?

Mr. WOHLSTETTER. I think so. I have noticed some movement there. I think that there are uses for multinational centers and one should stay loose on this subject, try to devise something sensible for them to do. Again, extreme advocacy here and excessive enthusiasm are the wrong thing.

There are some things that they might usefully do, and there might be some things done in IAEA facilities, too. But not reprocessing. Suppose you reprocess and don't manufacture the mixed oxide fuel—which would be one scheme—you would then be shipping out separated plutonium and that wouldn't be good.

Even if you ship out only unirradiated mixed oxide fuels, that would make plutonium for bombs more easily available. So, I think one shouldn't push reprocessing in any form. Reprocessing may be a mistake even from a strictly economic point of view—neglecting proliferation. And I would be willing to make some economic sacrifice just

to avoid the sort of spreading disorder that would come with spreading bombs.

Mrs. MEYNER. I thank you, professor, and thank you, Mr. Chairman.

Mr. FRASER. Mr. Ryan.

Mr. RYAN. Just a couple of questions to pursue a particular point.

POSSESSION OF NUCLEAR POWER

The presumption in any kind of nuclear controls is that first of all only nations will be able to handle nuclear matters. Is that valid?

Mr. WOHLSTETTER. I am sorry.

Mr. RYAN. Only nations will be able to handle nuclear matters. Is that a valid presumption?

Mr. WOHLSTETTER. I am not sure——

Mr. RYAN. That is, in dealing with nations we deal with nuclear power and nuclear controls.

Mr. WOHLSTETTER. Yes, but this doesn't mean that nuclear weapons might not be diverted by subnational terrorist groups. That is a problem that has been very much in the press.

INGREDIENTS OF A NUCLEAR WEAPON

Mr. RYAN. That brings me to the next question. What are the ingredients of a nuclear weapon?

Mr. WOHLSTETTER. Essentially readily fissionable material.

Mr. RYAN. Such as plutonium?

Mr. WOHLSTETTER. Plutonium, U^{235} and U^{233}.

Mr. RYAN. In what quantities?

Mr. WOHLSTETTER. You can think roughly in the case of fissile plutonium, of about 5 kilograms per bomb.

Mr. RYAN. How many pounds is that?

Mr. WOHLSTETTER. Eleven pounds. And in the case of highly enriched uranium you might think of it as roughly 16 kilograms.

ACCESS TO NUCLEAR MATERIALS

Mr. RYAN. How accessible is that material either legally or contraband?

Mr. WOHLSTETTER. To terrorists?

Mr. RYAN. Yes; anybody, nations or individuals.

Mr. WOHLSTETTER. Well, it is much more accessible to nations than to individual terrorists. In the case of the United States, of course, we have large stocks of it carefully inventoried. Neither we nor other governments deliberately employ dissident terrorists so clearly it is much more accessible to nations who control such inventories.

In those countries that have separated plutonium, for example, in critical experiments, the government has control and there are varying degrees of physical security in various countries. But I can't think of any government that opposes physical security for its special nuclear material, and that is one of the reasons that this problem is a more easily soluble one than the proliferation problem.

I might mention that the kind of things that we are talking about doing—to restrict the separation of plutonium and limit stocks of other readily fissionable materials—would automatically reduce the terrorist problem very greatly. If for example, you don't recycle plutonium in power reactors, then you are not going to have plutonium around in forms that terrorists could handle—except for that used in critical experiments, which might be dealt with in another way.

GAPS IN INVENTORIES OF PLUTONIUM

Mr. RYAN. Do you have any comment on the reports, I guess that is the only way to attribute them, the reports that I have heard that there are gaps in the inventories of the plutonium in this country alone without going to any other countries that have nuclear powerplants?

Mr. WOHLSTETTER. I don't have any very illuminating comments to make on that. As you know, as anyone with experience with inventories in a factory knows, it is sometimes very disheartening when you compare the numbers on paper with the numbers actually in physical stock.

Mr. RYAN. Yes.

Mr. WOHLSTETTER. They never quite match up.

I am sure that they don't quite match up here, either.

Now, whether we have been careless or not I really can't say. My impression is that we have gotten a lot more careful in recent times about inventories and physical security.

Mr. RYAN. Well, all right, let us presume that today we are totally careful.

Mr. WOHLSTETTER. There will still be some material unaccounted for.

Mr. RYAN. There is still a quantity unaccounted for which in terms of world politics or international relations in the various countries and conflicts that exist, there is enough contraband at least theoretically in existence to make questions regarding nuclear controls somewhat less of a malleable and controllable set of factors than we would like to believe. Is that a presumption that is valid or not?

Mr. WOHLSTETTER. I am sure that there will always be some uncertainty and therefore it will be less than we like. However, I am quite optimistic about the feasibility of keeping the risk of individual or subnational or transnational terror in the United States reasonably small and especially if we don't take a decision to reprocess spent fuel and recycle plutonium in the United States.

Mr. RYAN. One last question.

ISRAELI POSSESSION OF NUCLEAR WEAPONS

It is generally accepted, I believe, that Israel has a few atomic weapons. Would you care to speculate as to where the nuclear material came from to construct those weapons?

Mr WOHLSTETTER. Well, let me comment on the first part of it.

Mr. RYAN. All right.

Mr. WOHLSTETTER. It may be that Israel has nuclear weapons. I have seen the press articles. I have noticed, however, that the leaked revelations that the Israelis have nuclear weapons tend to coincide with some sort of dispute between us and then—for example, on the size of the military aid program. This makes me a little skeptical.

It may be true but I haven't myself seen the evidence that the Israelis have the bomb. They may have it. But I haven't seen the evidence and I tend to discount a little the leaks simply because they come out at such predictable times.

Mr. RYAN. Do they have an operating nuclear plant?

Mr. WOHLSTETTER. Yes; the answer to your second question is related to the first, yes, they have a research reactor, something like the sort of research reactor that the Indians used in order to get plutonium for their nuclear explosive. There are quite a few such around. Theirs is a heavy water natural uranium reactor of 24 MWt, yielding less than 2 kilograms per year of plutonium in spent fuel. But I don't have any evidence that they have a separation plant.

In the case of India, they say themselves they decided on a reprocessing plant in 1958; in 1964, in the Third International Conference on the Peaceful Atom, they published the plans for it.

Mr. RYAN. I say in closing, the information that I have heard regarding accessibility to nuclear weapons or nuclear materials is not from any classified source in this country, I don't think I would be violating any kind of confidence because of what I say.

Thank you.

U.S. COMMERCIAL NUCLEAR INDUSTRY

Mr. FRASER. I just have two questions, Dr. Wohlstetter. As you know, there is constant apprehension within the U.S. commercial nuclear industry. They fear we will place them at a competitive disadvantage in the world market. Setting aside for the moment the question whether that apprehension is justified or not, do you agree that the industry might profitably exercise vigilance over our executive branch efforts or lack of them as illustrated by the German deal with the Brazilian Government?

Mr. WOHLSTETTER. Well, the industry interest in this, if it is viewed in long perspective, really is rather different from the way it is normally interpreted. It will really be a disaster for the nuclear industry, if their nuclear sales get to be simply a facade for spreading nuclear weapons. They will lose domestic support. I think that, therefore, they should be interested in seeing some sort of sensible control.

Similarly, I think even in the domestic field it would be wise if the industry reconsidered the whole of recycling, to see how much difference it could possibly make economically anyway, and whether it is really worth it for them to get into all of the environmental problems—which are much more severe in reprocessing than in the case of reactors, to get into the problems of the theft of separated plutonium by terrorists, and to get into the nuclear weapons spread problems that I have been discussing.

In my view the industry doesn't have to take a short-term view. It would be wise to be somewhat more thoughtful than at least some of its representatives are. As I mentioned, I certainly do not oppose nuclear exports or nuclear sales domestically. But some forms of export and some forms of domestic nuclear energy endanger the future of the industry as well as us all.

The industry certainly should try to follow what the executive branch as well as the Congress is doing and to make its own views

clear. Those views might be valuable, especially if they spend a little more time thinking about their long-term interests rather than simply answering extremists on the other side, and if they avoid the opposite extreme.

IMPACT OF AMENDMENT RESTRICTING REPROCESSING

Mr. FRASER. My other question is related to the language of the proposed amendment. I think you commented on the draft language earlier. Do you think that if this language is enacted into law it would be detrimental to our nuclear industry in any way?

Mr. WOHLSTETTER. If I understand the language correctly, it will in the long-run be helpful to the industry because the industry has an interest in a healthy volume of sales based on the genuine economics, in civilian uses, not on competing with other countries by offering nuclear bombs as sweeteners.

Mr. FRASER. Professor, I appreciate your appearance this morning. The committee has benefited enormously from it and we appreciate your willingness to respond to further questions in writing. This is a complex subject for many of us trying to get a handle on both nuclear technology and its implications for our foreign policy. Thank you very much.

Mr. WOHLSTETTER. Thank you.

Mr. FRASER. The committee stands adjourned.

[Whereupon, at 12:35 p.m., June 16, 1976, the committee adjourned, subject to the call of the Chair.]

76-772 O - 76 - 33

EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

TUESDAY, AUGUST 10, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C.

The committee met at 11 a.m. in room 2172, Rayburn House Office Building, Hon. Clement J. Zablocki, presiding.

Mr. ZABLOCKI. The committee will come to order.

It is my understanding that several members are on their way.

The committee today continues hearings on the extension of the Export Administration Act of 1969.

Is Hon. James Florio of New Jersey present?

In view of his not being present, I think we will begin with the witnesses on the proposed amendments by Congressman Bingham which aim primarily at improving the export license process.

Mr. Arthur Downey, Deputy Assistant Secretary of Commerce for East-West Trade, will be our first witness.

Mr. Downey, you may proceed with your oral statement. Your prepared statement will be placed in the record.

STATEMENT OF ARTHUR T. DOWNEY, DEPUTY ASSISTANT SECRETARY OF COMMERCE FOR EAST-WEST TRADE

Mr. DOWNEY. You have copies of my written statement which contains detailed comments on each of the 15 amendments which have been proposed. These comments were formulated only after careful study and intensive discussion with members of your staff.

Please accept my appreciation for the availability of your staff and its cooperation during the past couple of weeks. They were quite willing to join with us in a candid discussion of the problems in their export control process.

COMMERCE DEPARTMENT RESOURCES

Mr. Chairman, legal problems and operational difficulties will necessitate our opposing some of Mr. Bingham's amendments.

You are aware of the manpower problems that confront our Office of Export Administration. Certainly the additional responsibilities and reporting requirements incorporated in the amendments would have an effect on the ability of the office to process expeditiously the license applications that we receive.

This is not to say that we disagree with the objectives which are reflected in the amendments. It is simply a question of the resources we have and those we could expect to have in the near future.

Nevertheless, through this process, I am convinced that there has been a fundamental agreement between the executive branch and this committee on our shared objectives.

Both the Department, as evidenced by Secretary Richardson's recent testimony before your committee, and the committee itself, as manifested by these amendments, recognize the need to improve this complex administrative process in such a way as to insure that the interest of national security and the legitimate interests of the American business community are properly balanced.

Of the 15 sections in the proposed legislation now before you, 8 are substantively acceptable to the Department although some of them might benefit from some minor drafting changes to enable their proper implementation.

Two of the remaining amendments involve foreign policy considerations that lie within the jurisdiction of the Department of State. State's views have been communicated to you separately and are also included for informational purposes in my written statement.

Therefore, for the purposes of my oral comments, let me focus on the five provisions which cause us some trouble.

EXTENSION OF THE ACT

The first is section 1 of the bill, which would extend the authority of the act for only 1 year. We believe this is an unnecessarily short time period. We do appreciate that this committee has only recently been assigned jurisdiction over this subject, and presumably you have inserted the 1-year provision so as to enable you more fully to acquaint yourselves with the act during this year.

We hope you appreciate the fact that we recognize it is very much in our own interest to keep this committee and the Congress, as a whole, fully informed with respect to our activities. The 1-year time limit is not needed for this purpose.

We would like to cooperate with the committee in all respects and will respond to any requests for information that you may have.

TERMINATION OF GENERAL LICENSE

With respect to section 3 of the proposed amendments, it is our understanding that this amendment reflects the philosophy that all exports should be free from control unless there are valid reasons for such control. This is our current practice. However, we have gone about this practice by establishing a series of general licenses for which no application is required and no document is issued.

The premise of this system is that the Department has control over all commodities and data not controlled by other agencies, and we do this without listing all specific commodities and data as we fear your section 3 would require.

Were we to have to follow section 3, we would have to make rather heavy changes in our regulations to retain the safeguards that currently qualify the use of the general licenses. After making changes in the regulations, we would then have to conduct an educational campaign to acquaint American exporters and freight forwarders with the new rules. Yet, the net effect would be neither to relax nor to

tighten our controls. So we would have gone through this entire process of revision and education for no apparent purpose.

In sum, therefore, we fail to see what benefits this section would accomplish and we do foresee clearly some time-consuming problems, if it is enacted.

NINETY-DAY LICENSING PERIOD

Turning to section 5 of the proposed amendments, we, without question, fully appreciate and share the intent that export license applications be acted upon, approved, or disapproved, within 90 days of submission. But we do believe it is dangerous to specify that an application which has not been approved or disapproved within this time frame "shall be deemed to be approved" unless we inform the applicant of special circumstances which will require additional time.

We have no objection to the requirement that we inform the applicant of the specific instances and of the estimated date of action. We try to do this now under existing law. But, please bear in mind that it is conceivable that an application can get lost in the mail. The exporter could wait his 90 days under this amendment and then, not having heard from us, invoke the authority of this section and proceed to export without an approved license.

Even if an application is not lost in the mail, out of the 53,000 applications we get a year we do regrettably lose 1 or 2 ourselves. They fall under the desk. In this situation, the same thing could happen.

We are dealing here with export transations which, if consummated, could adversely affect the national security. Therefore, I seriously question whether it is wise to trigger a transaction on the absence of an action. In any event, we believe that this automatic approval is not needed as an inducement for us to act expeditiously.

We are well aware of the sentiment in the Congress. We have made efforts to reduce our heavy backlog, to improve our procedures, and we are resolved to continue that process.

EXEMPTION FROM ADMINISTRATIVE PROCEDURES ACT

We also are opposed to section 6 of the proposed amendments which relates to the repeal of section 8 of the Export Administration Act. The continued exemption from certain provisions of the Administrative Procedures Act is very important to an orderly and responsible administration of export controls. The reasons are detailed at great length in my prepared statement, which also describes the protections that each exporter is currently afforded.

Please understand, though, that while we argue against the proposed amendment, we do so with a healthy respect for your motivation. We share your concern with respect to the need for a maximum degree of openness in this process to facilitate communication between the Government and the business community. We believe we have done a lot to accomplish this, but obviously, we have not been fully successful in that regard.

Nevertheless, it is more important for us to agree on ways in which to do this job without risking the substantially harmful consequences

which could affect our process in the business community if section 8 were repealed.

CONGRESSIONAL ACCESS TO INFORMATION

Turning to section 7 of the proposed amendments, that relating to section 7(c) of the current act and the notion of confidentiality. Exporters, as you know, are continuously providing us with information which they consider to be confidential for business purposes. They are assured by the current confidentiality provision of the act that the Department will not release such data unless the Secretary of Commerce has determined that the withholding thereof is contrary to the national interest.

The Secretary, as you know, has released this business confidential data to congressional committees and subcommittees upon receiving a pledge from the chairman that the committee or subcommittee and its staff will honor the confidentiality of the data.

Section 7 of the amendments does not place any restriction on the use of the data that will be provided to any committee of Congress or any subcommittee thereof. Absent such condition, we fear that business confidential information that would be provided to the Congress might inadvertently not be accorded the confidential treatment it deserves, and that the business community has a right to expect. Certainly business information that has already been provided to the Department under the existing pledge of confidentiality should not be subject to the provisions of this amendment.

We would recommend no change in section 7(c), but, as a minimum, any change should be made to apply prospectively and should specify that a request from any committee or subcommittee of Congress should contain an assurance that the confidentiality of the data will be respected and not released without the consent of the person or the firm that provided it.

Mr. Chairman, I am afraid that my oral comments sound very negative. They do so only because I dwelt on those few provisions where we do have some difficulty.

I invite you to look at my prepared statement which reviews all those that we applaud or have no objection to.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Downey follows:]

STATEMENT OF ARTHUR T. DOWNEY,
DEPUTY ASSISTANT SECRETARY OF COMMERCE
FOR EAST-WEST TRADE

INTRODUCTION

Thank you for the opportunity to present the Department's views on the amendments to the Export Administration Act of 1969, proposed by Mr. Bingham.

After careful study, and discussions with your staff, the Department of Commerce finds many sections of this bill that it must oppose, other sections that would be acceptable if certain clarifying changes were made, and still others that we can accept outright. Before I address the various sections in detail, let me comment on the over-all impact the amendments would have.

The Department's Office of Export Administration, which is responsible for administering the Act, faces a workload that taxes its human resources. The Congress has recently denied the Department's request to reprogram resources from two trade centers to the Office of Export Administration both of which are part of the Domestic and International Business Administration (DIBA). This forces DIBA to propose allocation of sufficient personnel to meet OEA's needs from among other DIBA resources. The additional duties that we would be required to carry out under many of these amendments would impact heavily on the ability of the Office to process speedily the export license applications, some 200 per day, that it currently

receives. The special studies that would be required would also affect the Office's ability to perform its day-to-day licensing function, particularly since many of the special studies would have a six-month deadline.

Within the context of this general concern, therefore, let me address the specific provisions of the Bill.

SECTION 1

Section 1 of the Bill would extend the authority of the Export Administration Act only for one year. The Department believes such an extension is unnecessarily short. Extensions of the Export Administration Act, and its predecessor, the Export Control Act of 1949, have always been relatively brief, but never have they been limited to one year. We fear this short period will militate against the orderly development of programs that cannot be fully operative until much of a year has passed. For example, there are studies underway to (1) improve and expedite the interagency consultation aspect of our control program and (2) evaluate our compliance activities.

we appreciate the fact that jurisdiction over export controls has been assigned to the Committee on International Relations and that the one-year limitation was apparently intended as a means of providing the Committee an opportunity for educating itself fully with respect to the administration of the Act and the problems associated with it. Indeed, we recognize that it is very much in our own best interest to keep this Committee and the Congress as a whole fully advised with respect to our activities -- for it is only with a full understanding of the limitations and potentials of any project that Congress can legislate wisely. Such a thorough understanding benefits us as well as the Congress and the nation as a whole. But, we believe that a one-year limit is not needed for this purpose. The Department wishes to cooperate with the Committee in all respects and will respond to requests for information in as forthright and prompt a manner as we have to date, whether those requests are in the form of correspondence or additional hearings.

SECTION 2

We fully understand the stimulus behind Section 2 of the Amendments and agree there is a need to remedy the current

absence of authorizing language in the Act. However, we question the advisability of moving in the direction envisioned in Section 2. There are very few, if any, existing provisions for specific dollar authorizations for carrying out administrative functions under a law. It is, of course, commonplace to fix dollar limitations on authorizations for programs involving grants, loans, and the like. In the case of administrative functions, however, little point would seem to be served by fixing dollar limitations in the statute. Rather than provide for specific dollar authorizations, we would recommend that the Committee adopt the following language to achieve the objective we share in common: "Such sums as may be necessary are hereby authorized to carry out the provisions of this Act.".

SECTION 3

The Department strongly opposes Section 3 of the amendments. We understand that this amendment reflects the philosophy that all exports should be free from control unless there are valid reasons for such control. This is our current practice. We have gone about it, however, by establishing a series of general licenses, for which no application is required and no document is issued. The premise of this general license system, however, is that the Department has "control" over the export of

all commodities and data not controlled by other agencies, and we do this without listing all specific commodities and data, as we believe Section 3 would require. Let me explain this general license system and the advantages it affords.

First, our regulations do specify in detail each commodity that is under validated license control and to what destinations this control applies. However, the vast majority of the goods produced in this country may be exported to all but embargoed destinations under an established general license.

Second, through use of the general license system we are able to control the reexport of these products to those destinations for which direct export is generally prohibited. Failure to exert this control would create a loophole that would frustrate the intent of the government's export control policy.

Third, firms that have been found in violation of our regulations usually are subject to administrative sanctions authorized by the Export Administration Act. In most cases, the firms are denied both validated and general license export privileges. This is a very effective enforcement mechanism that would be seriously

weakened if we were precluded from "controlling" the export of non-strategic commodities.

With respect to technical data, we have a somewhat related problem. The effectiveness of our control over strategic goods would be frustrated if U.S. firms could export unpublished design or production or similar data to other Free World destinations where they could be used to produce these strategic goods for export to destinations for which we exercise control for national security purposes. The effectiveness of our control also would be frustrated if the foreign recipient of the data could reexport the know-how to these controlled destinations. Therefore, we have established a general license that may only be used if the foreign recipient of the data provides written assurance to the exporter that the technical data will not be reexported and, in certain specific instances, that the strategic direct product of the data will not be exported to these controlled destinations without our prior approval. If the use of a general license is precluded by this amendment, we could not control the reexport of the data or the export of the strategic direct product thereof unless the data were to be put under a very extensive and cumbersome validated licensing system that would cover all destinations.

The Department also has established general licenses that permit the export, under controlled conditions, of strategic commodities that are under specific validated license control to most countries. These general licenses are designed to treat particular situations or transactions where the reduction in the administrative impact of our controls can be accomplished with the minimum of a security risk. For example, there is a general license that permits the export of small quantities of controlled commodities to most destinations. This is accomplished by establishing a value limit on the use of this general license. There is another general license that permits exporters who have registered with the Department to export, for temporary use or exhibition in a Free World destination, commodities that would otherwise require our specific prior approval. Some conditions, of course, are imposed to prevent misuse of these general authorizations. For example, exporters are prohibited from splitting an export order into small shipments to qualify for the limited value general license, and exporters must return commodities exported on a temporary basis within one year, unless they apply for permission to sell or otherwise dispose of the goods abroad.

I have described our general license structure because, as we perceive Section 3, the Department would have to make drastic changes in our regulations to retain the safeguards that

currently qualify the use of our general licenses. Once we had worked out the necessary revisions, we would have to conduct an extensive educational campaign to acquaint all United States exporters and their freight forwarders with the new rules. Yet the net effect would likely be neither to relax nor to tighten our controls, and our export trade would be disrupted, from their point of view, for no apparent purpose. In sum, we fail to see what benefits Section 3 would accomplish and we foresee extremely difficult and time-consuming problems if it is enacted.

SECTION 4

Section 4 of the amendments imposes what we consider to be a reasonable restriction on the authority to use unilateral export controls if the restriction is limited, as we believe is intended, to controls imposed for national security reasons. In this regard, it would help if the new language in subparagraph (2) were to read "The President shall not impose national security unilateral export controls . . ."

SECTION 5

The Department has serious problems with Section 5 of the amendments. We fully appreciate and share in the intent of Congress, as expressed in Section 4(g) of the current

Act, that export license applications be approved or disapproved within 90 days of submission. However, we believe it is dangerous to specify that an application which has not been approved or disapproved within this time frame "shall be deemed to be approved" unless we inform the applicant in a timely manner of the specific circumstances requiring such additional time and an estimate of the date when the decision will be made.

We have no objection to the requirement that we inform the applicant of the specific circumstances and of the estimated date of action. Indeed, we are trying to do that now under the existing requirements. But it is not inconceivable that an application could get lost in the mail and never reach us, [or that a similar fate could befall our outgoing letter.] The exporter, who will know when he submitted his application, could wait the 90 days and, not having heard from us, invoke the authority of this Section and proceed with the shipment. Moreover, we receive some 53,000 applications each year and, I am sorry to say, on occasion one falls between the chairs. We take great efforts to prevent this from happening, but there is a lot of paper and it could happen. In this circumstance, the exporter, after 90 days, would have a legal right to ship the goods or technology. We are dealing with some export transactions that, if consummated, could adversely affect the national security of the United States, I seriously question whether it is wise to trigger a transaction on the absence of an action. In any event, we do not believe

this automatic approval is needed as an inducement to the Department to act on applications within 90 days. We are well aware of the sentiment in Congress. As we have testified on prior occasions, we have made significant efforts to reduce our licensing backlog and to improve our procedures. We are determined to keep the over-90-day-old applications to an absolute minimum.

With respect to the proposed subsection 4(g)(2), we have no great problem with it, but we do suggest one modification. To supply an applicant with the detailed information specified will occasion more work for our staff, and, by virtue of our being required to wait for a reply, will perhaps aggravate the processing delays. We do not object, however, to this requirement, because applicants deserve to be as fully informed as possible of any problems associated with the review of their proposed transactions. As presently written, however, it would appear that, if we were to provide the applicant with the <u>specific</u> circumstances requiring the delay, we often may have to divulge security classified information. Section 9 of the current Act deals with this problem by requiring the Department to provide certain information to exporters "insofar as it is consistent with the national security, the foreign policy of the United States, the effective administration of this Act, and requirements of confidentiality contained in this Act." A similar phrase in Section 5 of the amendments would, we believe, be in order.

SECTION 6

The Department is strongly opposed to the repeal of Section 8 of the Export Administration Act.

Continued exemption from the provisions of the Administrative Procedure Act (APA) is essential to an orderly, responsible, and efficient administration of the export control functions exercised pursuant to the Export Administration Act. Repeal of Section 8 would serve to hamper severely the administration of the export control programs in several respects.

Repeal of Section 8 presumably would make applicable to all export administration programs the procedural requirements of the APA relating to rulemaking (5 U.S.C. 553). Under those prescribed procedures, which require advance notice of proposed rulemaking, opportunity for public comment, and a 30 day delay in the effective date of final rules, the Department's Office of Export Administration (OEA) may be precluded from acting promptly to promulgate essential new regulations or to change an existing one unless one of the limited exemptions provided for in the APA could be applied in the particular case. Morever, even if we believed that the use of an exemption was justified, we would be subject to court challenges regarding such determinations.

74-772 O - 76 - 34

The consequences of such a preclusion cannot be overstated. For example, it is occasionally necessary to revise the Commodity Control List as quickly as possible so as to bring under validated license control a newly developed strategic commodity or technology so that it cannot be exported to the detriment of our national security.

Moreover, unanticipated political shifts or events abroad from time to time necessitate immediate revisions in the Export Administration Regulations to change the level and nature of control applied to particular countries. A requirement that OEA adhere to the procedural guidelines and time frames of the APA would likely undermine these crucial functions of export administration and the attendant foreign policy considerations.

With respect to short supply export controls, we believe that repeal of Section 8 would effectively destroy our ability to execute the law. The need to give advance public notice of the Department's intention to bring under control exports of products in domestic short supply would give exporters the opportunity to make unrestricted shipments prior to the APA-dictated delay in imposition of the necessary short supply controls. If such shipments were made, they would aggravate the shortage, with the attendant adverse impact on the domestic economy.

Further, if Section 8 were repealed, certain essential functions of OEA, such as licensing and enforcement, may well be considered adjudicatory functions within the meaning of the APA. If the APA requirements for adjudications were to apply, full-scale, on-the-record hearings, presided over by an administrative law judge, would presumably have to be held for each license application and enforcement proceeding. OEA processes approximately 53,000 license applications each year, all of which could be subject to the quasi-judicial procedures provided for by the APA. Adherence to APA requirements for adjudications would require a huge staff of hearing officers, attorneys, and other personnel to handle cases. Two immediate consequences would be a significant increase in budgetary needs as well as a significant protraction in the time required to process license applications.

Several practical problems would also occur which we believe would be virtually insoluble. For example, all 53,000 applications include information which is deemed to be confidential in the view of the applicant as well as within the meaning of Section 7(c) of the Export Administration Act. Additionally, the processing of a significant number of the applications involve U.S. national security classified information as well as data classified under international (COCOM) agreements. The procedures governing adjudicatory

matters require that all decisions be reached on the basis of the full record. It would obviously be difficult to take adequate account of national security considerations in a forum which is open to the public.

I should point out that the foregoing is by no means an exhaustive inventory of the impact of repeal of Section 8. It is, we believe, sufficiently illustrative of our predicament. For these and other reasons, we strongly recommend that you not proceed with the contemplated amendment.

I hasten to add that, while we argue against the proposed action, we do so with a healthy respect for your motive. We share your Committee's concern with respect to the need for a maximum degree of openness in the process to facilitate communication between the government and the business community. We believe we have done a great deal to accomplish this, but even a cursory review of your hearing record shows we have not been entirely successful in that regard. More must be done. But it is important for us to agree on ways in which to do this job without risking the substantial and largely harmful consequences which would befall the export licensing process and, consequently, the business community were Section 8 to be repealed.

Finally, I would point out that, although activities undertaken pursuant to the Export Administration Act are exempted from most of the rquirements of the Administrative Procedure Act, this does not mean that such activities are exempt from administrative due process requirements. Indeed, the Department is prohibited from acting arbitrarily or capriciously or abusing its discretion with regard to the issuance of rules and regulations, action on export license applications, or compliance actions. Private parties having standing can challenge our actions in an appropriate U.S. District Court under one of several jurisdictional statutes, to wit, 28 U.S.C. §§1331, 1337, and possibly 1361.

Ample opportunity exists for interested persons in the private sector to comment on rules and regulations issued by OEA or to make recommendations for new rules and regulations. Section 5(b)(2) of the Act specifically requires that the Secretary, upon imposition of short supply controls, invite all interested parties to submit written comments within 15 days on the impact of such restrictions and the method of licensing used to implement them. Pursuant to other parts of Section 5, the Department has established a technical advisory committee structure in which exporters provide the Department

with valuable advice on commodities and technologies requiring national security export controls. The Subcommittee on Export Administration of the President's Export Council was established so that the Department could receive overall policy recommendations from the private sector on the export control program. Furthermore, OEA officials meet with various members of the export community on an informal basis to consider their views regarding either the circumstances surrounding a particular license application or overall export control policy. Finally, comments from interested parties in the private sector on our rules and regulations may be submitted at any time and are regularly received and considered. In other words, the input from the private sector concerning the issuance of rules and regulations, contemplated by the APA, is certainly received and considered, albeit not in the specific manner contemplated by that statute.

Due process is also accorded to applicants whose export license applications have been denied and those exporters against whom administrative compliance actions are undertaken. The latter are given full notice of the charges against them in a document known as a charging letter. The accused exporter is given a full opportunity for an impartial hearing on such charges before the Departmental Hearing Commissioner, and through him may subpoena relevant witnesses and documents. At the hearing, all evidentiary material relevant and material

to the inquiry must be received and considered. The accused has the right to be represented by counsel. The Hearing Commissioner must make a report including recommendations to the Director of the Office of Export Administration based on the assembled record. Administrative sanctions imposed by the Director may be appealed to the Departmental Appeals Board pursuant to the provisions of 15 C.F.R. §388.13. Copies of the decisions of the Appeals Board as well as of orders denying export privileges are available for public inspection and many are published in the Federal Register.

Exporters whose export license applications have been denied may appeal such denials to the Assistant Secretary for Domestic and International Business pursuant to the provisions of 15 C.F.R. Part 389. Proceedings before the Assistant Secretary are more informal than those before the Hearing Commissioner or the Appeals Board in order to provide the exporting companies with an effective opportunity for appellate consideration of the denial of their license applications without requiring time consuming and expensive hearings. Were appellate procedures for denied applications to be formalized, the large corporations may be the only ones who would be able to afford the time and money needed to pursue them. Moreover, it should be noted that the Assistant Secretary, having broad responsibility for administration of the export control programs, is able to deal in policy areas from which the Appeals Board is precluded and can thereby take into account the applicant's position within the export co[illegible] program.

Decisions of the Assistan[illegible]cretary or the Appeals Board constitute final agency action which an aggrieved party can

have reviewed in U.S. District Court pursuant to the jurisdictional statutes mentioned earlier. Criminal violations of the Act are of course prosecuted by the Department of Justice in U.S. District Court. Full criminal due process applies at that point.

SECTION 7

With regard to Section 7 of the amendments, I am certain you are aware that exporters are continuously providing the Office of Export Administration with information they consider to be confidential for business reasons. They are assured by the current confidentiality provisions of the Act that the Department will not release such data unless the Secretary of Commerce has determined that the withholding thereof is contrary to the national interest. The Secretary has made such a determination and has released this business confidential data to Congressional committees and subcommittees on a number of occasions upon receiving a pledge from the Chairman that the committee or subcommittee and its staff will honor the confidentiality of the data.

In this connection, I note that Section 7 of the amendments does not place any restrictions on the use of the data that would be provided to "any committee of Congress or any subcommittee thereof." Absent assurances to business with respect to the honoring of confidentiality we fear that business confidential information that would be provided to the Congress would not be accorded the confidential treatment it deserves and that the business community has a right to expect. Certainly, business information that has been

already provided to the Department under the existing pledge of confidentiality should not be subject to the provisions of this amendment. A l even if the amendment, as written, were to be made to apply prospectively, I fear that the Office of Export Administration would find that exporters would stop providing some of the information needed to consider properly export license applications. The Office frequently needs information concerning either the proposed transaction or the commodity involved that the applicant guards tightly for business reasons. At present, he is assured that the data will be held in confidence. If that assurance is lacking, he may elect to withhold the information. For lack of this information, wrong decisions perhaps would be made; we would have to err on the side of denying applications if we had insufficient information on which to determine that they could be approved. The only likely alternative would be lengthy delays while we sought other sources for the data the applicant was unwilling to provide.

The Department would recommend no change in Section 7(c) of the Act. However, as a minimum, any change should be made to apply prospectively and should specify that a request from any committee or subcommittee of Congress should contain an

assurance that the confidentiality of the requested information will be respected and not released without the consent of the person or firm that had provided it.

SECTION 8

Mr. Chairman, The Department has no objections to Section 8 of the amendments.

SECTION 9

Section 9 of the amendments poses no substantive problem to the Department. The Office of Export Administration has attempted to keep its rules and regulations continuously under review and, over the years, has made many revisions to simplify them. The requirement that we conduct a special study and report to Congress no later than six months after enactment of this amendment will, however put a strain on our resources. If a formal time requirement is considered necessary, I would recommend that we be given at least one year from the date of enactment.

SECTION 10

With respect to Section 10 of the amendments, we have no objection to subsections (b) through (d) and subsection (f). We believe that the subsection (a)(3) may inadvertently make all export license applications subject to review by the Secretary of Defense. We, therefore, recommend that the words "to any nation to which exports are restricted for national security purposes" replace "to any such country" in the second sentence of Section 4 (h)(1). Moreover, striking out the phrase "to such country" as proposed in subsection (e) would have the inadvertent effect of prohibiting the Office of Export Administration from approving for export to any destination a commodity or technology that had been disapproved by the President for export to a specific destination against a specific request. We believe this is unintended and could be remedied by introducing the word "proposed" before "export" so that the phrase would read "...no license or other authorization may be issued for the proposed export of such goods or technology."

We are strongly opposed to section (g) of this Section. Section 6(b) of the current Act provides for felony penalties for firms or individuals who willfully export

anything in violation of the Act, or any regulation, order or license issued thereunder, with knowledge that such exports will be used for the benefit of any Communist-dominated nation. I fear that repeal of this provision will be construed as a signal that the Congress is no longer as concerned with the national security implications of the export control program as previously. I do not believe this was the intent, but I fear that it might be the result. If the intent was to move away from use of the phrase "Communist-dominated nation," this could be accomplished by retaining Section 6(b), but substituting for this phrase the following: "nation to which exports are restricted for national security or foreign policy purposes". This approach would also expand the current scope of Section 6(b) to allow felony penalties to be imposed on exporters who willfully make illegal exports with knowledge that they will be used for the benefit of any nation upon which we have imposed controls for foreign policy reasons. This would include Rhodesia, as well as Cuba, North Korea, North Vietnam, South Vietnam, and Cambodia, and in some cases the Republic of South Africa and South-West Africa (Namibia). We feel such an expansion of the present scope of Section 6(b) to be in

order so as to discourage further those exporters who would illegally subvert our foreign policy objectives.

The Department has previously recommended an increase in the amount of monetary fines that can be imposed for violations of the Act, justifying the request on the fact that inflation has eroded the significance of the fines that can now be levied. We request that these amendments reflect our recommendations.

SECTION 11

The Department of State is charged by delegation from the President with administration of Mutual Defense Assistance Control Act (The Battle Act - 22 USC Section 1611-1613d). Title II provides authority for entering into negotiations with aid recipient countries for establishment of a program to control their exports of certain items other than those specified in Title I of the Act - namely, arms, nuclear materials, and other items of primary strategic significance that are covered by the multilateral strategic trade control system.

While in the early years under the Battle Act there was a list of non-embargoed items falling within the scope of Title II on which trade data was maintained as a

basis for possible control programs, there is no longer such a list and there are no existing control programs that have been negotiated with aid recipient countries.

For these reasons there would be no objection to the proposed repeal of Title II and the Department of State is notifying the Chairman of this conclusion.

SECTION 12

The Department of Commerce has no objection to subparagraph (j)(1) as proposed in Section 12 of the amendments so long as the phrase "nation to which exports are restricted for national security or foreign policy purposes" is not construed to include those Free World destinations for which we require validated license approval for exports of strategic products primarily as a device to assure against their diversion. We understand the intent is to interpret the phrase in this manner and we would recommend that such interpretation apply as well to the other sections of the amendments where we are proposing that the phrase be used.

The study proposed in subparagraph (j)(2) is couched in very general terms. A "study of the problem" could be construed to require an extensive review, not only of journals, but also of technical symposia conducted throughout

the country at which technical papers relating to commodities under control for national security or foreign policy reasons are presented before international audiences. This would be a very time-consuming task. Completion of any meaningful study with the specified six-month period would be difficult.

The Department believes that by and large technical data that are really important from the standpoint of the design, production, manufacture, utilization or reconstruction of commodities of a strategic nature are not freely divulged by the developers of the data and do not find their way into the public domain through publication or similar types of dissemination. These data are too valuable to be disseminated without recompense. For this reason, our regulations currently exempt from control the export of data that have been made freely available to the public in any form, as well as most scientific or educational data. We do not believe a study is needed to affirm this conclusion.

For these reasons, we oppose this subparagraph.

SECTION 13

The Department has no substantive problems with Section 13 of the amendments. We believe we now are providing in our semi-annual Reports to the President and Congress practically all the information that would be required by this amendment. Of course, the Department consults informally daily with exporters and producers on various aspects of export license apolications and similar control problems, and it would be impossible to include an accounting of each such query. But, if the amendment may be construed in a reasonable manner.

We see no difficulty in complying with the proposed amendment.

SECTION 14

This Section would require a one-time report on the effectiveness of multilateral strategic trade controls. Much of the information that would be sought through this report has already been provided to the Committee or to the Subcommittee on International Trade and Commerce during the course of hearings. If required, additional information could be provided, although some potentially relevant information is classified and would have to be made available under conditions which would assure its continued protection.

Subparagraph 6 of the proposed new Section would call for the President to submit "a detailed plan, in the form of a draft international agreement, for formalizing and improving the effectiveness of multilateral export controls. . ." We believe this provision is unnecessary and undesirable. It prejudges the outcome of the President's report. Moreover, the decision to negotiate any such arrangement lies with the President, consonant with his Constitutional responsibilities. It would seem to us that the reporting and analytical purposes of the proposed Section would be best served by eliminating Subparagraph 6. The Department of State concurs with this view and is including such a recommendation in its letter to the Chairman on the proposed bill.

SECTION 15

This Section relates to the duration and termination of trade embargoes.

The Department of State is providing the Chairman with the Executive Branch's views on this issue.

MC CLOSKEY LETTER

This concludes my comments on the proposed amendments, Mr. Chairman. However, in your letter of invitation, the

Department was also asked to comment on a July 21 letter from Mr. Peter McCloskey, President of the Computer and Business Equipment Manufacturers Association (CBEMA), which takes exception to Secretary Richardson's June 11th testimony on computer safeguards.

Although the computer industry has accepted safeguard requirements to avoid forfeiting the trade, Mr. McCloskey states that it considers some, especially on-site residency and monitoring of the system's operation, to be costly to the American firm, hazardous to its employees, and of doubtful effectiveness. He also notes that the same safeguards are required for computers destined for the People's Republic of China, even though the PRC is unwilling to accept them. In contrast, he says, CBEMA concluded that "the most effective safeguards for major computer systems would be one of 'guaranteed access' to the installation and the system, on a regular and/or random basis."

To view this matter in context, it is important to realize that most computers are exported to proscribed countries with no formal safeguards whatever, other than the normal care that is taken with respect to exporting any controlled items to such destinations. More powerful computers are licensed

on the basis of guaranteed access and periodic visits to the installation, in keeping with the CBEMA proposal. Computers in this range constitute the second largest segment of computer exports to proscribed countries.

On-site residency and monitoring are required only in a handful of cases for very powerful computers, both U.S. and foreign, whose diversion to strategic use could have a significant impact. Government experts who have studied the safeguards problem since early 1969 believe that by far the best assurance against diversion is to have a knowledgeable Western representative on site, with full access to all equipment and computer programs, to oversee the system's operation. There can be little question that this day-to-day contact with the installation provides better assurance against significant diversion than occasional visits which, in the Soviet Union, Eastern Europe, and especially the PRC, can never really be made casually or at random because of the need to obtain visas and make other travel arrangements with the approval of the various governments.

The Subcommittee on Safeguards of the Department's Computer Systems Technical Advisory Committee endorsed the residency requirement for safeguarding higher level computers in May,

1974. The group disagreed, however, as to the level of computer for which residency should be required. The Subcommittee also addressed the problem of personal safety of company representatives. To minimize this problem, it concluded that "the procedures must be openly established and mutually agreed upon by supplier and user, they must be implemented as a normal part of the operation of the facility, and the user must understand that the licensing government has sole responsibility for applying sanctions."

The reluctance of the PRC to accept any safeguards is well known, but this attitude can hardly be viewed as justification to reward them by providing them, without safeguards, advanced computers that, if diverted, could contribute significantly to military operations. A more defensible, if regrettably necessary, solution to the dilemma surely would be to limit computer exports to the PRC to less powerful systems that do not require safeguards and that would pose less of a threat if diverted.

The Report of the Subcommittee on Safeguards has been extremely valuable. For the past two years it has served as a basis for recommending specific safeguards for various levels of computers. It also provided a basis for the U.S. proposal to COCOM with regard to the conditions that should apply to the

licensing of computers. The other COCOM countries concurred, and this proposal has now been adopted by all COCOM member countries.

On another point made by Mr. McCloskey, it is not correct that the Computer Systems Technical Advisory Committee was not advised of the disposition of its report. At the meeting following the conclusion of the COCOM review, a government representative made a detailed presentation to the Technical Advisory Committee members. Emphasis was placed on the contributions of the Committee to the success of the COCOM review, and special note was made of the fact that the recommendations of the Safeguards Subcommittee were used as the basis for the agreed computer licensing procedures. Shortly thereafter, a letter was sent to the firms that manufacture computers in the range affected, to apprise them specifically of the visits and reports that would be required as safeguards.

Although other COCOM countries accept on-site residency and monitoring for their larger computer systems, COCOM procedures make no provision for these safeguards. Each case is considered on its merits, however, and is recommended for approval only if suitable safeguards can be devised.

Mr. FRASER. Thank you very much, Mr. Downey.

Mr. Bingham.

Mr. BINGHAM. Thank you, Mr. Chairman.

I haven't had a chance, Mr. Downey, to study your comments in detail.

I would like to thank you for the thorough way in which you have analyzed the draft amendments that are incorporated in the committee print.

Mr. DOWNEY. If I may, Mr. Chairman, I want to compliment your staff. If this analysis is thorough, it is because we have worked it out almost jointly with your staff.

Mr. BINGHAM. I am satisfied that we will be able to work out some of the problems that you point to. On others we may have simply a remaining difference of opinion, recognizing the problems that you face.

ONE-YEAR EXTENSION

The 1-year extension is related to the proposal for an annual authorization of funds. You may not be aware of the fact that the State Department now operates under an annual authorization. We have become accustomed to that. It provides us with a mechanism for assuring an annual review of the operations of the Department. I do not think that the process is as painful as perhaps you anticipate it will be.

It does seem like a short period of time, but if you understand that it is linked to the proposal for an annual authorization, I think you might understand the reason for it.

I do not quite understand why you suggest, near the bottom of page 2, that the—

> Short period of extension will militate against the orderly development of programs that cannot be fully operative until much of the year has passed.

Mr. DOWNEY. That is not a very clear statement.

The basic problem with such a short extension period is that it will have a substantial psychological impact.

There are a lot of programs that are moving. A lot of your proposed amendments will require studies that will be done in 6 months or 1 year, and there is no sense of permanence; everything becomes very temporary. Will this be continued? Will that be continued? Will this be changed?

We have become used to what are still short-term extensions of 3 years.

This just seems abruptly short. We would like more time to work under the existing act and to demonstrate to you in a year, if you would like, what we have done. It is not a question of the presentation to you, which is, as you say, not very painful. Rather it is the idea of the sword hanging over the act again which causes us a problem.

We would have no difficulty in reporting to you annually. Indeed, we report to Congress in written form semiannually. That is not our problem. It is that the entire act is in limbo for a year.

GENERAL LICENSE

Mr. BINGHAM. Let us press on to section 3 of the amendments.

Doesn't your premise that you seek, that the Department has con-

trol over everything not controlled by another agency run counter to a basic notion of the free enterprise system?

Mr. DOWNEY. If it were implemented in such a way that we, in fact, controlled everything, it would certainly run counter to the notion that there should be minimal governmental involvement in the private sector.

The way, however, that this is implemented is by a series of general licenses under which we do not require license application or paperwork for virtually all commodities except those few that we have listed where a specific validated license is required.

I don't think the notion of an assertion of legal authority to control runs contrary to the notion of free enterprise.

Mr. BINGHAM. If, in fact, you operate the general license system in such a way that you issue licenses without any application being required, and no document issued, for all commodities which aren't restricted in some way, I don't really understand your objection to turning the whole thing around.

Mr. DOWNEY. We do not issue licenses where we don't have applications coming in. A general license is simply published which says, in effect that everything can be exported except those few items we control for specific purposes.

In addition, we are able to use the general authority to control reexports of certain products to destinations where the direct export would be prohibited. This also enables us, as a legal matter, to have a handle on the export of technology that we otherwise might not be able to control. If we do as you suggest, it would mean totally rewriting our regulations and affirmatively listing all the commodities. We could do it; however, the net effect would be——

Mr. BINGHAM. Hold it. Let me interrupt you right there.

Affirmatively listing what commodities?

Mr. DOWNEY. For example—and I would direct you to the parts on pages 4, 5, 6, 7, and 8 of my testimony where we lay out some of the examples—through the use of the general licensing system, we can control the reexport of a commodity to a country to which we would not permit the direct export of that commodity. Under this system of general licenses, we do not require a specific application from someone who wanted to export his widget from the United States to France, but we are able to say that it cannot be reexported to the Soviet Union, for example.

Under this proposed amendment however, we would have to turn that around and list that commodity and say that we would require a specific application to reexport the commodity from France, for example, to the Soviet Union.

We also use our general control over all exports in the area of sanctions as part of our compliance program. We use, as an enforcement mechanism, the withdrawal of all export privileges. Presently, we have the ultimate authority of withdrawing general license privileges for exporters who have violated our regulations. If we were not to have that authority, we would be able to withdraw the privileges of exporting only to a very much narrower area, that is, that small portion of our national product that is under validated license control.

The practical effect of what you suggest and what we do now are really the same. The impact on the exporter would not change materially. But what would be required would be that during the next 6 months or during the next year, we would have to rewrite the regulations, educate the exporting community, simply to end up where we were.

Mr. BINGHAM. You are really saying it doesn't make much difference in practice.

Mr. DOWNEY. I don't think so.

PENALTIES FOR VIOLATION OF THE ACT

Mr. BINGHAM. You have never, I assume, used the power to deny the general license or withdraw the general license?

Mr. DOWNEY. Yes, sir, we have.

Mr. BINGHAM. You have?

Mr. DOWNEY. Oh, yes.

Mr. BINGHAM. Can you cite some cases?

Mr. DOWNEY. In our semiannual report to the President and the Congress on export administration, we list the enforcement activities taken during the reporting period. You will find a listing of recent enforcement measures, and you will note that they do include the withdrawal of export privileges.

Mr. BINGHAM. That means that a company that is subject to that penalty cannot then export at all.

Mr. DOWNEY. If the extreme penalty is applied, yes.

I might note also, since you are interested in the penalties, we hope that you would add a provision to your amendment which would include an increase in the civil and criminal fines which can be imposed for violations of the act.

In the bill that the administration submitted, we have requested an increase in the monetary fines that could be imposed. We would find that desirable, if you would agree with that.

Mr. BINGHAM. You have referred to the fact that you have made that recommendation. We don't seem to have any record of your making that recommendation.

Mr. DOWNEY. Will you accept it as now stated, then, for this record? It is in the Senate version, also.

Mr. BINGHAM. I am aware of that.

Do you have any specific recommendations that you can state for the record now as to what the increase in penalties should be?

Mr. DOWNEY. Yes, sir.

We are increasing them rather substantially. May we supply that for the record?

Mr. BINGHAM. Yes.

[The information supplied for the record follows:]

In addition to proposing a 3-year extension of the Export Administration Act, the Department of Commerce has proposed three amendments to the current statute which relate to the imposition and collection of civil and criminal penalties.

The first of these would increase the maximum civil penalty that can be imposed for each violation of the Act from $1,000 to $10,000. The civil penalty is an extremely useful sanction. However, there are times when a civil penalty of only $1,000 per violation is less than suitable, since the value of the transac-

tion involved is so great that, when taking into consideration the profit made on such an illegal transaction, a $1,000 civil penalty is not a meaningful sanction or deterrent. The only heavier sanction is denial of export privileges, and this may well be more severe than warranted. Authority to go to $10,000 would close this gap appreciably.

The second would permit deferral or suspension of the collection of civil penalties for any period of time so that the possibility of collection would exist for at least as long as any probation that might be imposed (frequently for periods of more than a year). The prospect of collecting any suspended payment due as a result of additional violations detected during the period of probation would serve as a substantial deterrent to noncompliance during that period.

The third would increase the maximum criminal penalties for knowing violations of the export administration regulations from $10,000 and $20,000 to $25,000 and $50,000, respectively.

Mr. DOWNEY. They included an increase in the maximum criminal fines from $10,000 and $20,000 to $25,000 and $50,000, respectively. The change in the order of magnitude of the original fines provided for in the act was necessitated by the fact that inflation has eroded their impact.

We want to make it clear that we intend to enforce the act.

Mr. ZABLOCKI. Will the gentleman from New York yield for a moment?

It has been called to my attention that Chairman Morgan has received proposals to provide for the increased penalties that he intends to bring up at the time of the markup for our consideration. He may have amendments that he proposes.

Mr. BINGHAM. Thank you. We will be grateful for that.

EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT

With respect to the matter of repeal of the exemption from the Administrative Procedure Act, it is my understanding that this exemption was understood at the time of the enactment of the Export Control Act to be a temporary exemption.

Mr. DOWNEY. I have not personally reviewed the history of the act at this time, sir.

Mr. BINGHAM. There are exceptions to the requirements of the Administrative Procedure Act, such as considerations of national security, foreign policy, and so on.

Have you considered whether these exceptions might not be sufficient to meet the problems that you raise?

Mr. DOWNEY. It is our judgment that the exceptions were not sufficient to deal with the problems that we would have and, additionally if the Administrative Procedure Act were applicable, we would have a potential court challenge on each one of the exemption determinations.

In some areas—for example, in the short supply program—the effect of the program would be destroyed if before we instituted a short supply control or monitoring requirement we had to announce our intention to do so in public. I am sure that was not the intent.

Mr. BINGHAM No, I can't say I have studied the matter in detail either but it is my impression that the Administrative Procedure Act would allow exceptions where there is a necessity of quick action in revising a list.

Mr. DOWNEY. We have explored the potential for using these exceptions and we have found them not adequate for our needs.

It is entirely possible, for example, that our whole licensing function could be construed as an adjudicatory function which would require us to have on-the-record hearings and an administrative law judge, et cetera, for a whole array of applications and license determinations. This would be simply impossible to deal with, without additional staffing and it probably would require a trebling of the staff.

REPORT ON COCOM

Mr. BINGHAM. You did not deal in oral testimony with your comments on section 14 requiring a one-time report on the effectiveness of multilateral strategic controls. It isn't clear to us what you are opposed to in the present proposals.

Mr. DOWNEY. I do not think that a report is necessary. Much of this information has already been provided to this committee and its Subcommittee on International Trade and Commerce in recent hearings. Nevertheless, we do not oppose it. If you feel it is something that ought to be done, we will do it.

We do have difficulty with the specific paragraph 6 which would call for the President to submit a detailed plan in the form of a draft international agreement for improving the effectiveness of multilateral export controls. This raises some constitutional issues.

The Department of State will be responding to you directly on that. The overall notion of having this report, as I say, is something that we would not have recommended. It is just more effort, the essence of which we are already doing. This will simply require us to do it in a special form.

But we do not oppose it.

Mr. BINGHAM. But you are opposed to paragraph 6.

Mr. DOWNEY. Yes, sir. We feel that there is an internal inconsistency on the one hand to ask the President to make a report to see what should be done and then prejudice the outcome by saying the President has to work up a draft of an international agreement.

It also raises some constitutional issues, so we would, at a minimum, suggest that you eliminate paragraph 6.

Mr. ZABLOCKI. In view of the quorum call the committee will stand in recess for 10 minutes.

[A short recess was taken.]

Mr. ZABLOCKI. The committee will resume its hearing.

Before we continue, the Chair would like to ask unanimous consent that the letter from the Department of State be made part of the record of the hearing. Without objection, it is so ordered.

[The letter submitted by the Department of State follows:]

DEPARTMENT OF STATE.
Washington, D.C., August 9, 1976.

Hon. THOMAS E. MORGAN,
Chairman, Committee on International Relations, House of Representatives

DEAR MR. CHAIRMAN: I am writing to bring to your attention the views of the Department of State concerning the proposed amendments to the Export Administration Act of 1969 now before your Committee.

We understand that a representative of the Department of Commerce will appear before the Committee on August 10 to present the Administration's views on the overall effects of these amendments. However, I wish to supplement that testimony with regard to certain issues of particular interest to this Department.

First, we note that Section 11 of the proposed bill would repeal Title II of the Mutual Defense Assistance Control Act of 1951 (The Battle Act; 22 U.S.C. §1612). The Department of State is charged by delegation from the President with administration of this legislation. Title II generally authorizes negotiations with aid recipient countries to establish a program of export control for certain of their exports. In early years under this legislation, trade data was maintained on certain items as a basis for possible control programs. However, no such data is presently maintained, and there have been no programs of controlling exports negotiated with any aid recipient countries. This Title is therefore presently unnecessary and we would have no objection to its repeal.

Secondly, we note that Section 14 of the proposed bill would require a one-time report on the effectiveness of multilateral strategic trade controls. Much of the information apparently sought in this report has already been provided to the Committee during the course of its hearings; if required, additional information could be provided, although some potentially relevant information is classified and would have to be made available under conditions which would assure its continued protection.

Subparagraph 6 of the proposed new Section 11 calls for the President to submit "a detailed plan, in the form of a draft international agreement, for formalizing and improving the effectiveness of multilateral export controls . . ." We believe that this provision is unnecessary and undesirable. It appears to prejudge the outcome of the President's report, which might, for example, conclude that an international agreement "for formalizing and improving the effectiveness " of export controls is undesirable, in which event there would be no point in submitting a draft agreement. It goes without saying that any decision to negotiate such an arrangement could only be made by the President, consonant with his constitutional responsibilities. Conclusion of an agreement would of course be subject to appropriate participation by the Congress through enactment of authorizing or implementing legislation or through consideration of a treaty submitted to the Senate for its advice and consent to ratification.

I also wish to emphasize our concerns as to Section 15 of the proposed legislation, which would add a new Section 8 to the Act, relating to duration and termination of trade embargoes. We recognize that Congress has a basic role in this area as the source of legislative authority for trade embargoes. Congress could clearly impose a time limitation on the duration of any embargo in such authorizing legislation. However, we do not believe that Congress can, consistent with the Constitution, utilize the concurrent resolution procedure outlined in the proposed Section 15 to authorize an extension of an embargo for a specified period, or to terminate an embargo upon a specified future date.

We believe that these provisions seek to authorize the Congress to make enactments having the force of law without the participation of the President required by Article I, § 7, cl. 3 of the Constitution. Particularly significant in this regard is that both types of concurrent resolutions under the proposed Section 15 would permit the Congress to set specific terms for the continuation of trade embargoes. These terms are clearly intended to be binding upon the President and to have the force of law, and yet they are to be enacted without satisfying the constitutional requirements for enactments intended to have the force of law.

The views of the Executive Branch on this question have been brought to the attention of the Committee in a variety of other contexts. On July 22, both the Legal Adviser of this Department and Assistant Attorney General Scalia of the Justice Department furnished extended presentations on this issue to your Subcommittee on International Security and Scientific Affairs. Rather than repeat what was said, we respectfully refer you to their statements. I wish to make clear that in our view the concurrent resolution provisions of this legislation are constitutionally inappropriate.

In addition to the general comments offered above, we would also appreciate the Committee's consideration of the bill's implications for the conduct of the Munitions Control functions administered by the Department of State pursuant to Section 38 of the Arms Export Control Act (22 U.S.C. 2778).

Section 3 of the bill amends Section 4(d) of the Export Administration Act so as to prohibit a licensing requirement except for *specific* destinations or *specific* items. The International Traffic in Arms Regulations (22 C.F.R. 121–128) require licensing of exports to *all* destinations of the items described *by category* on the United States Munitions List. If the amended Section 4(d), which is not expressly limited to licensing under the Export Administration Act, were construed as applicable to arms exports, it might apply to prevent the United States

from prohibiting arms exports which would harm important foreign policy and national security interests.

Similarly, the amendment to Section 4(b) of the Export Administration Act made by Section 4 of the bill is not limited to controls imposed under the Export Administration Act. Yet, the diminutions of authority to control exports of items available from foreign sources would be singularly inappropriate if construed as applicable to arms exports.

Section 6 of the bill would repeal the exemption of functions under the Export Administration Act from certain provisions of the Administrative Procedure Act. This would appear to invalidate the existing regulations of the Commerce Department on administrative proceedings as set out in 15 C.F.R. 388. In this regard, Section 38(e) of the Arms Export Control Act, as added by Public Law 94–329, approved June 30, 1976, authorizes the exercise with respect to munitions control functions of certain enforcement powers set out in Sections 6 and 7 of the Export Administration Act. The Department of State has prepared for publication proposed rules that would implement this authority by utilizing the services of the Commerce Department's Hearing Commissioner and Appeals Board. Enactment of Section 6 of this bill would thus not only cause a lapse in enforcement of the Export Administration Act, but would also delay and impede the institution of such procedures under the Arms Export Control Act.

Section 10 of the bill, like some other provisions discussed above, is not limited to exports under the Export Administration Act. Accordingly, it would appear to give the Secretary of Defense authority with respect to arms export licenses which partially duplicates and partially conflicts with the delegations of the President's statutory authority under the Arms Export Control Act, as set out in Sections 101 and 105 of Executive Order 10973.

Section 12 of the bill appears to impose an obligation upon exporters of technical data to report to the Secretary of Commerce even when the export has been licensed by the Department of State under Section 38 of the Arms Export Control Act. Moreover, this section appears to require a study by the Secretary of Commerce which would extend to exports of military technical data licensed by this Department.

Section 15 of the bill, apart from its constitutional deficiencies, would raise very serious practical problems if applied to exports of defense articles and defense services under Section 38 of the Arms Export Control Act. Frequently, during periods of international tension in particular countries or regions, the Department of State denies licenses for some or all arms exports to the country or countries concerned. In the case of a prolonged situation, such as now exists in Lebanon, where U.S. arms exports would clearly be detrimental to our national interests, a failure by Congress to adopt a concurrent resolution under this section could nevertheless impair our authority to apply a general embargo on arms shipments to the region concerned.

In view of the foregoing, we strongly urge the Committee to limit the scope of the bill to exports controlled under the Export Administration Act.

Because of our constitutional and other objections to Sections 14 and 15 of the bill, and because of its many undesirable implications for the conduct of arms export control functions, the Department of State strongly opposes enactment of the proposed legislation in its present form. However, we would welcome the opportunity to participate in discussions with the members or staff of the Committee with a view toward developing legislation that would satisfy the Committee's objectives and also meet the serious concerns of the Executive Branch.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

KEMPTON B. JENKINS,
Acting Assistant Secretary
for Congressional Relations.

Mr. BINGHAM. Thank you, Mr. Chairman.

I have no further questions. I simply would like to say that I will reexamine the proposed amendments in the light of the comments that Secretary Downey has made. I am sure that we will be proposing some modifications and certainly some of the points are well taken.

Mr. ZABLOCKI. Mr. Whalen.

Mr. WHALEN. Thank you, Mr. Chairman.

I just want to take this opportunity to apologize to you for the imposition that the legislative procedures, and I use the word "procedures" in quotes, has taken of your time.

IMPACT OF EXPIRATION OF THE ACT

In view of the fact that time is of the essence, I would just like to ask one very general question. What would happen if we failed to extend the law beyond its expiration date, which is the end of September?

Mr. DOWNEY. There has been some experience with that situation. I believe the answer is that the administration relies on the sweeping provisions in the Trading With the Enemy Act to allow us to sustain on a temporary basis the programs that we now have under the Export Administration Act.

If that were not the case and the Export Administration Act expired, there would be no way that we could control exports for purposes of national security, foreign policy, and short supply.

Mr. WHALEN. You say "on a temporary basis." How would that differ from a long-range basis? What authority would you have in the short run that you wouldn't have in the long run under the legislative enactment?

Mr. DOWNEY. I perhaps misstated that point when I said it would be done on a temporary basis. What I should have said, I think, is that utilizing the Trading With the Enemy Act is not the most desirable way to administer an export control program, since that act was not designed expressly for that purpose. We would want to use it only on a temporary basis. But the authority in the act is a permanent authority.

I do not mean to suggest that the Trading With the Enemy Act is applicable for 90 or 60 days. It is simply not the proper way or the best way to administer an export control program.

Mr. WHALEN. Again, Mr. Downey, I thank you for joining us. We certainly appreciate your patience this morning.

Mr. DOWNEY. You are very kind. I appreciate the burden that is on us all.

Mr. ZABLOCKI. The Chair does not intend to impose on your time any further because of the legislative processes. I would like to ask two previous questions, hoping that the Congressman who was scheduled to testify will appear in the meantime.

SAFEGUARDS

This committee has received complaints from industry regarding the safeguards required for shipment of sensitive items to Communist countries.

I know that you have touched on this in your prepared statement. I wonder if you would give us a little of your views at this time. The industries assert that the safeguards are more onerous than those required by the COCOM nations and that they can endanger the lives of their employees undertaking inspections and place them in a posi-

tion of being accused of spying. Now are these legitimate problems and has the Department looked into these assertions?

Mr. DOWNEY. These assertions, or many of them, were contained in a letter to you and to Mr. Bingham from the president of the Computer and Business Equipment Manufacturers Association, CBEMA, as we call it. In my prepared statement in response to your requests, we have what amounts to a response to Mr. McCloskey's letter.

In summary, I would note that his letter focused exclusively on the impact on the export of computers. I think it is first important to note that most computers are exported without any of the safeguards that he is talking about.

Onsite residency and monitoring are required only in a handful of cases involving the most powerful computers that we have ever exported to Communist destinations. We believe that the best assurance that we can have against an unacceptable risk of diversion of this highly sophisticated machinery is the actual onsite presence of a western representative.

Random access, random visits, we feel, are not adequate, in part because in these countries there can be no such thing as a random visit. You have to apply for a visa and the State can regulate your entry. So what would otherwise be desirable as an occasional or spot random visit really could not happen in the real world. We had a subcommittee of our technical advisory committees review this exact point. In May 1974, they prepared a report. This is a committee that is composed primarily of the business community, but also has some Government representatives.

That group provided us with our basic advice and agreed that we should have these sorts of safeguards. There was disagreement within the group, however, on the level of the sophistication of a particular computer at which the safeguards ought to be applicable. The problems of personal safety of company representatives and the potential for spying charges were also addressed by this technical advisory group.

It was on the basis of the advice we received from the subcommittee that we established the U.S. position which has now become the position adopted by the Multilateral Export Control Organization, COCOM. Therefore, I think that these charges are not supportable.

Without question it is an onerous burden on the companies. It is a costly burden. They have to add extra dollars on the cost of their product. But to do away with it would leave us no alternative but to deny the export. So far, at least, the companies have been quite prepared to accept this unpleasant burden in order to have their product exported.

Mr. ZABLOCKI. I would like to ask a further question. Section 106 of the Senate bill 3084 on export controls would give an applicant a chance to review the documentation submitted to COCOM pursuant to a COCOM exception for the exportation of a particular item.

Is this a useful proposal, Mr. Downey?

Mr. DOWNEY. I do not think it is useful for two reasons. One, there may be classified information in the documentation that we would submit to COCOM which we ought not reveal to the exporter. Second, it could delay the process of obtaining COCOM concurrence. I think

what is useful, and what we try to do, is to review with the exporter his description of the technical parameters of his machine.

It would be folly for us to deal with it on our own or to request an exception from the international program without a full understanding of what the machine does. We can only get that information from the exporter. Perhaps we don't do that enough.

I don't think that kind of requirement would be too difficult to deal with because it would not involve classified information. We would get the information in a letter exchange with the applicant.

But we certainly should check with the applicant to make sure we are describing his product accurately and describing what his product can and cannot do accurately.

Mr. ZABLOCKI. Thank you, sir. Are there any further questions of Mr. Downey? If not, thank you, Mr. Downey.

We again apologize for the delays.

Mr. DOWNEY. Thank you, sir.

Mr. ZABLOCKI. Our next witness today is Hon. James J. Florio of New Jersey who will testify on his proposal to ban the shipment of horses from this country for the purpose of slaughter.

We want to pologize to you, Mr. Florio, for the delays. We appreciate your patience in coming back to testify.

STATEMENT OF HON. JAMES J. FLORIO, A REPRESENTATIVE FROM THE STATE OF NEW JERSEY

Mr. FLORIO. Thank you, Mr. Chairman, and members of the committee. I thank you for the opportunity to speak before you on this somewhat hectic day. My remarks are brief because I think the proposition I am espousing is one that most people are familiar with and I think it stands on its own merits.

I believe the time has come to ban the exportation of slaughter horses to other countries. After careful studies were made by the U.S. Department of Agriculture, the National Horseman's Association, and the U.S. Humane Society as to the condition of these horses upon arriving at their destination, it has been shown that there is a consistently high incidence of leg weary, emaciated and severely injured horses.

I would like to cite just one example related to me by a member of the International League for the Protection of Horses. An ILPH inspector witnessed a prostrate horse unloaded from a ship which had been at sea for several days. The horse was suffering from a serious spinal injury. Because a French veterinary surgeon certified the horse as being fit for human consumption it was hoisted onto a vehicle and driven about 100 miles to a Calais slaughterhouse.

Immediate slaughter of the horse on the dockside was warranted to alleviate the animal's suffering, but to have done so, in view of the horse dealers would have decreased the value of the carcass. This incident is one of many and highlights a trade for which there is no reasonable justification. One question which we must ask ourselves is whether the United States is prepared to accept this abuse of its native livestock, or take measures comparable to the Canadian restriction of export of slaughter horses.

I see no reason why we cannot encourage the slaughter of horses for human consumption to be done in this country and then have the meat shipped abroad.

Parenthetically, I should say New Jersey stands second only to Connecticut in the industry of slaughtering horses for consumption overseas. It seems to me not only would this suggestion I make be humane but it would also increase the business of American slaughterhouses, a not unimportant consideration at this time in regard to the unemployment situation.

Therefore, I urge your consideration of this concept and I urge you to amend the Export Administration Act of 1969 during your markup session to prohibit the exportation of horses intended for slaughter.

In conclusion, I myself and Mrs. Meyner, a member of the committee, have introduced legislation to this end. We stand ready to prepare an amendment for the consideration of committee at the time of markup to effectuate what we are talking about in the event the committee sees fit to adopt our suggestion.

I thank the committee for the opportunity to make this statement.

Mr. ZABLOCKI. I thank my colleague for his testimony. It is my understanding that the bill was introduced yesterday and was referred to this committee.

Mr. FLORIO. That is correct, Mr. Chairman.

Mr. ZABLOCKI. I am sure that, knowing Chairman Morgan, there will be full consideration given to the gentlemen's proposal.

Mr. FLORIO. I appreciate that.

Mr. ZABLOCKI. Mrs. Meyner is a member of this committee. There was some question of jurisdiction but since it has been referred to this committee I am sure it will be given full consideration.

Mr. Bingham.

Mr. BINGHAM. Mr. Chairman, I would like to thank our colleague for his testimony.

EXPORTS

I am curious to know what the situation is with regard to cattle exports?

Mr. FLORIO. As of now there are no restrictions, of course, on cattle exports. Apparently what has been happening is that the overseas slaughtering is not that prevalent. Apparently in the horse consumption area there is a substantial overseas market for slaughtering operations. The information that has been conveyed to me is that the slaughterhouses overseas do not have the safety provisions, the health provisions, and, therefore, it costs much less to slaughter overseas, to say nothing about comparable wages which I assume are not comparable.

So there is a market overseas and when the whole process is priced out, the conditions in the ships that are being used to transport horses overseas, it leaves much to be desired. One of the suggestions that has been raised with me is that what, perhaps the Department of Agriculture should be doing is upgrading the quality of the facilities that are being used.

They have talked about it for quite a while and nothing has been done. I would be happy to see the committee act in the way I am talk-

ing about with the proviso that there be some directive to the Department of Agriculture to upgrade facilities for shipping overseas.

Until that is done the ban would prevail. This is, in fact, what Canada has done. Canada has put a ban on overseas exports. It is my understanding the comparable agency to the Department of Agriculture is in the process of coming to grips with the problem by increasing the humane nature of the facility or the health nature of the facility for shipping overseas.

At that time the Canadian Government would reconsider lifting the ban.

COST OF SHIPMENT

Mr. ZABLOCKI. It seems hard to believe that it is cheaper to export the live animal with all that that entails in the way of care and feeding and so on, or should entail, than it would be to export the product after processing.

Mr. FLORIO. You put your finger on the point that is, the care that it should entail or the feeding that it should entail. Many of the inspectors have indicated that the cargo ships plan to take 5 days. In fact, they take 7 days. The food which is put on, which is minimal at best, is unsafe.

There are no individual stalls for horses. The horses allegedly are just put into large compartments. So that the combination of the humane treatment that is costing less, as well as our concern over just inhumane treatment of animals in general, seems to me should motivate toward taking some action.

Mr. ZABLOCKI. How much of a business is that?

Mr. FLORIO. This is apparently a fairly large business and it fluctuates with the cost of the market product, that is, the horses' flesh, but it is a fairly large business. As you probably know, there are nations in the world that do rely on horsemeat as a staple part of their diet.

Mr. ZABLOCKI. Thank you.

Mr. FLORIO. Thank you, Mr. Chairman.

Mr. ZABLOCKI. Are there further questions.

Mr. WHALEN. I think our colleague has answered my question. These are horses that would be disposed of?

Mr. FLORIO. That is correct.

TREATMENT DURING SHIPMENT

Mr. WHALEN. And your concern is the treatment accorded them on the way to the market overseas?

Mr. FLORIO. Yes, sir, as I indicated, the secondary consideration might be the opportunity to provide employment at home. If they are going to be slaughtered for human consumption they may as well be slaughtered here. But the primary concern is humane.

Mr. ZABLOCKI. Are these horses transported in U.S. boats or is it other nation's ships. If they were in U.S. boats they would be under the humane rules and regulations of our country.

Mr. FLORIO. Apparently the Department of Agriculture has not done everything it is supposed to do with regard to specifying what the regulations should be with regard to horses. There seems to be some

difference between those rules and regulations which may exist for other types of livestock such as cattle.

Mr. ZABLOCKI. I certainly want to commend the gentleman for his concern and thank him for bringing the issue before the committee. We certainly will give consideration to this proposal.

Mr. FLORIO. Thank you very much.

Mr. ZABLOCKI. If there are no further questions the committee stands adjourned subject to the call of the Chair.

[Whereupon, at 12:55 p.m. the committee adjourned, to reconvene subject to the call of the Chair.]

EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

TUESDAY, AUGUST 24, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C.

The committee met at 10:20 a.m., in room 2172, Rayburn House Office Building, Hon. Thomas E. Morgan (chairman of the committee) presiding.

Chairman MORGAN. The committee will please come to order.

The committee is meeting today for the eighth day of hearings on the extension of the Export Administration Act.

At the urging of the Subcommittee on International Security and Scientific Affairs, which has done considerable work in the area of nuclear issues, the full committee has already had 1 day of hearings on the role of export controls in limiting the spread of nuclear technology.

Because neither the subcommittee nor the full committee has heard from the Department of Defense on this issue, we scheduled today's hearing with Mr. Donald R. Cotter, Assistant to the Secretary of Defense for Atomic Energy. Because of the impact this subject has on U.S. foreign policy, the Department of State also requested to be allowed to appear before the committee. Mr. Myron Kratzer, Deputy Assistant Secretary of State for Nuclear Energy and Energy Technology Affairs, is also at the witness table and is prepared to answer any questions.

The committee has also been contacted by the Energy and Research Development Agency [1] and the Nuclear Regulatory Agency and we expect to receive comments for the record from these agencies.

Mr. Cotter, you have a prepared statement, and you may proceed.

STATEMENT OF DONALD R. COTTER, ASSISTANT TO THE SECRETARY OF DEFENSE (ATOMIC ENERGY)

Mr. COTTER. Thank you, Mr. Chairman.

It is a pleasure to have the opportunity to appear before this distinguished committee and present some view of the Department of Defense on proliferation.

My brief introductory remarks will emphasize defense-related issues associated with nuclear weapons and their proliferation. I can then respond to any questions.

[1] See appendix 19.

THE NUCLEAR POWERS

The following attempts to put international nuclear capabilities into a historical perspective:

Since 1945, six nations have acquired and demonstrated nuclear explosive capabilities. Two, the Soviet Union and the United States, have since the late 1940's acquired awesome military nuclear forces which are still undergoing further development and modernization.

Two others, the United Kingdom and France, have since the early 1950's acquired significant nuclear forces and continue modest modernization of their capabilities.

The People's Republic of China has pursued a significant weapons program since 1964. Its force development in terms of long-range delivery capabilities has progressed at a slower pace than originally anticipated.

The last known nuclear nation, India, exploded a nuclear device of about 10–15 kilotons in May 1974. It was characterized by the Indian Government as a peaceful nuclear explosive. Since that time, no known military applications program has been observed in India. It is the Defense Department's view that this device could be either a peaceful nuclear explosive or a forerunner of a weapon.

One conclusion to be drawn of this short 31-year history is that military nuclear proliferation has been much slower than predicted in the early nuclear days. A second is that a number of high technology countries have not pursued a nuclear explosive capability although they could have.

The reasons for this wise restraint may be of value to other nations contemplating development of nuclear explosives or weapons. It is a long, expensive, and continuing task to achieve and keep a meaningful strategic nuclear power status. For our allies and friends around the world, it is also unnecessary, given the U.S. nuclear guarantee and mutual defense commitments.

INCREASED AVAILABILITY OF PLUTONIUM

But now we have a more serious proliferation potential. This is the prospect that the most inhibiting factor in developing nuclear weapons—the heretofore limited availability of plutonium, or highly enriched uranium—may be lost. This could be the result of world expansion in numbers of nuclear power reactors and, to some extent, research reactors, and possible spread of nuclear fuels and reprocessing facilities.

Thus, there is a potential for great increase in the numbers of countries which might opt for a nuclear weapons capability, primitive though it may be, as a result of easier access to plutonium or highly enriched uranium.

U.S. NATIONAL SECURITY

What is the Department of Defense interest in proliferation? Deputy Secretary of Defense Robert Ellsworth, then Assistant Secretary for International Security Affairs, testified before the Senate Foreign Relations Committee in October 1975. He said, in part:

* * * The sobering prospect of a further proliferated world is of great concern to the Department of Defense which is charged with the responsibility of ensuring our national security. The impact on United States security depends upon both where and when nuclear proliferation occurs * * *.

* * * Furthermore, providing deterrence against an increased number of nuclear equipped adversaries would require larger Defense expenditures than are required today * * *.

Another aspect * * * is the increased threat of nuclear terrorism or outlawry. * * * for terrorists and other outlaw groups to obtain access to nuclear weapons or to the materials required to build them.

The Non-Proliferation Treaty was reviewed in Geneva in May 1975. Although almost 100 States are parties, the treaty still is not adhered to by three nuclear states (China, France, India), and several high-technology states (Israel, Switzerland, Spain, Argentina, Brazil, South Africa).

CONTROLLING NUCLEAR PROLIFERATION

The Defense Department notes with concern that policy analyses conclude that proliferation cannot be halted, but may only be impeded. We must look carefully at what can be done in the near and far term to make this conclusion more hopeful for control of proliferation.

To aid in controlling proliferation, the Defense Department strongly supports:

Strengthening and supporting the Non-Proliferation Treaty;

Reducing the possibility of nuclear material or weapons diversion by terrorist groups;

Achieving agreement on export safeguards between major nuclear supplier countries; and

Inhibiting acquisition of national reprocessing facilities.

I might mention at this point, Mr. Chairman, that the administration has a high level study under Mr. Robert Fri, Deputy Administrator of ERDA, on nonproliferation, and the Defense Department is participating in this, also.

NUCLEAR SAFEGUARDS

Defense has taken some actions to mitigate some of these problems and is participating in the U.S. interagency areas dealing with safeguards and export controls. Some specifics are:

Diversion of nuclear material or weapons by terrorist groups has been of prime concern to both ERDA and the Department of Defense. Security procedures, protective measures, and weapon design features to deal with this possibility are in large part classified. The details have been provided to the Congress through classified channels to the Joint Committee on Atomic Energy, which, by law, is the committee that we deal with.

After consultation with some other nuclear exporting countries, the U.S. Government has decided that there should be:

No use of export material for weapons or PNE's;

IAEA safeguards on exported and re-exported materials and technology;

Special constraints on enrichment, reprocessing and weapons-usable nuclear materials, adequate physical security requirements for transferred items; and

Special controls on exports to sensitive regions.

These guidelines may help deter proliferation by removing, to some extent, commercial competition as a proliferation factor.

REPROCESSING NUCLEAR FUEL

Reprocessing is a key element.

The ultimate control of proliferation lies in the control of special nuclear materials—plutonium and highly enriched uranium. In addition to export practices, the reprocessing of material is a key element.

A country that possesses the capability for reprocessing spent fuel from power reactors also posseses a latent capability to use plutonium byproduct in nuclear weapons. A country that has a reprocessing capability and the technical expertise to develop and manufacture the required associated components could develop the nonnuclear components of nuclear weapons to an advanced state; final assembly to include the special nuclear materials could be accomplished in a short time—days to weeks.

Thus, the key element is the control of reprocessing facilities, with their inevitable byproduct of readily separable plutonium. The Department of Defense supports efforts to establish strong controls to inhibit national reprocessing facilities, and must also have appropriate controls on highly enriched uranium.

DISINCENTIVES TO PROLIFERATION

How can the United States, through the Defense Department, provide greater disincentives to nuclear weapons proliferation?

Mutual defense arrangements with our friends and allies around the world provide the basis for United States forward deployed conventional and nuclear defensive forces to act as a deterrent to aggression. In particular, the U.S. nuclear umbrella in NATO and the Western Pacific obviates the necessity for high technology nonnuclear States to resort to independent nuclear forces.

Should the United States withdraw nuclear weapons or conventional forces from overseas locations, or otherwise break our agreements, some of those allied nations might seek a capability to acquire nuclear weapons. Even today, it is conceivable that some Western-alined nations have undertaken such precautions, as a result of a perceived wavering United States resolve to uphold its commitments.

Therefore, the Department of Defense underscores the importance that nuclear capable forces of the United States and its allies make to national defense, to world stability, and to nonproliferation of nuclear weapons.

Those who advocate that the United States withdraw nuclear weapons from overseas should consider the possible consequences on increasing nuclear proliferation incentives of some of these nations. The spread to allied and otherwise alined countries of the capability to build and deliver nuclear weapons can only reduce the possibility for meaningful international arms control agreements.

We believe that a major Department of Defense role is in assisting nonproliferation by influencing security perceptions of nonnuclear friends and allies. This would inhibit nuclear weapons proliferation

primarily through constraining nations from developing an inidigenous nuclear explosive capability. A nation that has the capability to produce nuclear weapons may be dissuaded from that act by perceiving that its own security is not in jeopardy.

POSSIBLE SAFEGUARD STEPS

As I said earlier, history shows that even after a nation achieves the capability to detonate nuclear devices it takes a long time to achieve a true military capability. However, there is enormous opportunity for mischief and disaster if even primitive nuclear explosives capability falls into certain hands. We must avoid that by meaningful safeguards over special nuclear materials.

We must also use what time we have to seek longer term solutions. Some may be available through technology of alternative fuel cycles and designs of reactors to minimize diversion possibilities. Other initiatives would include:

Improving our "watch" capability for troublesome countries or areas to give more warning time;

Being prepared to satisfy the needs of underdeveloped countries desiring peaceful nuclear explosives services as guaranteed in the Non-Proliferation Treaty; and

Better protection of information which, if disclosed, would have an adverse effect on U.S. nonproliferation goals.

Mr. Chairman, that is the end of my prepared statement.

Chairman MORGAN. Thank you, Mr. Cotter.

CONTROLS LIMITING REPROCESSING

Mr. Cotter, on page 5 of your statement, you say, and I quote:

> The Department of Defense supports efforts to establish strong controls to inhibit national reprocessing facilities.

You do not suggest how such controls might be structured. You merely say that the U.S. umbrella, by inference other nations' security perceptions, may dissuade them from seeking a reprocessing capability.

Do you have any suggestions as to what controls might be feasible?

Mr. COTTER. No, sir; I don't have any detailed notion of how that could be accomplished. I certainly believe that it is in the U.S. best interest to not allow the availability of separable plutonium in other national facilities.

"WATCH" CAPABILITY

Chairman MORGAN. Mr. Cotter, you mentioned one initiative the United States could take would be to improve our "watch" capability for troublesome countries.

What do you mean by "watch" capability?

Mr. COTTER. That merely means—and I might add that the intelligence community has in the last year put together a nuclear watch team—a proliferation watch team, to look at developments that might be undertaken by others.

Chairman MORGAN. Just surveillance and no other activities?

Mr. COTTER. That is right, surveillance and keeping track of the kinds of people who have been trained, educated, a large number of them in this country, that could provide the technical basis for a weapons design team, for example.

COUNTRIES WITH REPROCESSING CAPABILITY

Chairman MORGAN. Mr. Cotter, how many countries now have reprocessing capability?

Mr. COTTER. I am sorry, sir; I don't know.

Perhaps Mr. Kratzer could answer that question.

Chairman MORGAN. Mr. Kratzer, can you answer that question?

STATEMENT OF MYRON KRATZER, DEPUTY ASSISTANT SECRETARY OF STATE FOR NUCLEAR ENERGY AND ENERGY TECHNOLOGY AFFAIRS

Mr. KRATZER. Thank you, Mr. Chairman.

May I say, since this is the first occasion of my speaking here, that I very much appreciate your willingness to allow me to appear here today on very short notice.

Mr. Chairman, at the present time there are no commercial large-scale reprocessing facilities in full operation in any country, that we are aware of.

Our own facility, as I think you may know, is nearing completion but is not yet in operation. A similar facility in the United Kingdom which has operated in the past is not back in operation after extensive modernization and expansion. A similar facility in France is in about the same status.

There are several pilot-scale reprocessing operations in the world handling commercial fuels.

I am omitting from my response the reprocessing facilities that are devoted to the separation of materials for defense purposes. There are pilot-scale reprocessing facilities in France, in Germany, in India, for example. There are what I would call sub-pilot-scale facilities, largely devoted to handling research reactor fuels in several additional countries.

For example, Argentina has had one in operation. Italy has had one in operation. Not all of these are operating at the present time.

All told, in varying degrees of capacity, and most of these are quite small facilities, I think there are probably six or eight countries that have some reprocessing capability.

LIMITING REPROCESSING

Chairman MORGAN. Mr. Kratzer, is the Department of State trying to limit other nations in gaining the reprocessing capability?

Mr. KRATZER. Mr. Chairman, our policy for some time has been to try to limit the spread of reprocessing capability under national control. Toward that end, we have had consultations with other nuclear supplier countries, as well as with various recipient countries that we have had negotiations with.

Let me give you some concrete examples of the steps that are being taken in this direction.

We have recently completed negotiation of nuclear cooperation agreements with Israel and Egypt. Those agreements are still under final review within the executive branch, and I am not certain when they will be submitted to the Congress, but I can say that those agreements completely prohibit the reprocessing of the material we would supply in either of the two countries. In other words, any reprocessing is subject to our control. There is an understanding that reprocessing would take place outside of the countries in question.

We have other negotiations in progress in which we are undertaking to develop arrangements which would make it possible for any reprocessing to occur under conditions that we think are optimum from the nonproliferation standpoint, either in facilities under multinational auspices or in third countries which we can mutually agree on; provisions of that nature.

So, there is that policy.

We are taking concrete steps to implement it to try to deter the spread of reprocessing facilities under national control.

Chairman MORGAN. Thank you, Mr. Kratzer.

Mr. Broomfield.

Mr. BROOMFIELD. Thank you, Mr. Chairman.

IMPACT OF U.S. POLICY ON NUCLEAR PROLIFERATION

Mr. Cotter, on page 5 and page 6 of your statement, you make the following comment:

> Even today, it is conceivable that some western-aligned nations have undertaken such precautions, as a result of a perceived wavering United States resolve to uphold its worldwide commitments.

Do you have any firm evidence to this effect?

Mr. COTTER. No, sir; this is a conjecture on our part.

PEACEFUL NUCLEAR EXPLOSION

Mr. BROOMFIELD. What is the difference between a peaceful nuclear explosion and I guess a nonpeaceful one? How do you classify those? What is the difference?

Mr. COTTER. I think it is very difficult to make a distinction. They are both nuclear explosives.

There are certain characteristics that one would desire in a PNE, so-called, where you might be using it for excavation purposes, for example.

Our nuclear laboratories have designed explosives that are cleaner, for example, than the normal kinds of devices that are used in weapons. But, basically, I think it is very hard to tell the difference. The technology is basically the same. It is just too difficult to tell the difference.

1974 NUCLEAR EXPLOSION BY INDIA

Mr. BROOMFIELD. India, you have indicated on page 1 of your statement, undertook in May 1974 a peaceful nuclear explosion.

How did India develop that capacity? Was that through reprocessing plants that were sold to it by other countries or another country?

Mr. COTTER. I am afraid I do not have the precise information, unclassified information, on that.

Mr. BROOMFIELD. Mr. Kratzer, could you answer that?

Mr. KRATZER. Yes, sir. India obtained, in the late 1950's, a research reactor from Canada, a reactor which, although quite useful for research, and used actively for research, has a significant capacity for the production of plutonium. This is a natural uranium research reactor, unlike the enriched uranium research reactors which we have provided and which have little or no plutonium production capability.

I might add, as has been pointed out on a number of occasions, that heavy water employed in that research reactor was supplied by the United States. Both the ingredients, the reactor, itself, and the heavy water, were supplied under agreements which specified that they were to be used only for peaceful uses but those agreements were entered into at a very early stage of our nuclear cooperation programs. They did not follow the policy that we have followed uniformly since that time of requiring safeguards; in other words, inspections and other mechanisms designed to account for the material which the reactor produced.

Some time, and, of course, it is difficult to say just when this occurred, in the latter part of the 1960's, apparently a decision was reached by India to pursue this course of action. They had plutonium from this reactor which was then reprocessed, separated, in a reprocessing plant, a small one, one of the plants I referred to in response to an earlier question, which was built largely with their own efforts. There was a very small input of outside technical advice.

For all practical purposes that plant was built with their own efforts, using unclassified technology in the public domain. They separated the plutonium and, in 1974, with the results that we are all aware of, exploded a nuclear device.

The Indian contention at the time and since that time has been, of course, that it is a peaceful nuclear explosive.

They have not conducted any further nuclear explosions which, I think, is a very desirable restraint on their part.

Clearly, there is a difficult question involved in that course of action on their part. The agreement under which these materials were obtained specified they should be used only for peaceful uses. India believes it has complied with those undertakings but, of course, we cannot distinguish between a nuclear explosion supposedly devoted to peaceful purposes from one that could be used for military purposes, and that is the source of our difficulty.

Mr. BROOMFIELD. Thank you, Mr, Chairman.

Chairman MORGAN. Mr. Zablocki.

Mr. ZABLOCKI. Thank you, Mr. Chairman.

CONTROLLING NUCLEAR MATERIAL EXPORTS

Mr. Cotter, from the statement you have given there is no question in my mind that the Department has stayed clearly knowledgeable of the existing danger. Particularly on page 2 you spell out the most serious proliferation potential.

On page 3 you list a number of policies that the Defense Department strongly supports. I note, however, that you do not include a policy which would regulate the export of nuclear material.

If you realize the great danger of nuclear proliferation, don't you think it is necessary to support the regulation of the export of nuclear material?

Mr. COTTER. Yes, sir, I thought I referred to that, but I guess I didn't.

Mr. ZABLOCKI. If you did, it didn't impress me because I don't remember it.

Mr. COTTER. Yes.

DOD SUPPORT FOR ZABLOCKI AMENDMENT

Mr. ZABLOCKI. If you agree that there is a need to give full consideration to such a policy, would you care to comment on the amendment that is being proposed to provide for such a policy in the Export Administration Act?

Mr. COTTER. Is this the so-called Findley amendment?

Mr. ZABLOCKI. The Zablocki-Findley, or Findley-Zablocki if he asks the question.

Mr. COTTER. I can see I really fell into it there. Is this the amendment that Mr. Fortier showed me—yes; I think it is a positive step.

Mr. ZABLOCKI. You would not oppose such an amendment?

Mr. COTTER. No.

Mr. ZABLOCKI. Thank you very much. Do you want to qualify your support?

Mr. COTTER. No; I would merely say I haven't really studied all the various amendments in the bills that are around.

Mr. ZABLOCKI. This is the amendment.

Mr. COTTER. This is the amendment?

Mr. ZABLOCKI. That is the one that has the highest priority of study.

Mr. COTTER. I have not been able to keep up with them; there are so many that keep coming up.

One thing does strike me in the review processes; it may be overlooked or underemphasized; there is a process I believe would be desirable. Perhaps the President should certify the national security aspects of the proposed action to the Congress. I refer you to section 144 of the Atomic Energy Act wherein on weapon matters, for example, 144(b), the ERDA and the Department of Defense jointly review and make the recommendation that the proposed action is in the national security interests of the United States and would not prejudice the national security.

The President then informs the Congress, through the joint committee, in the case of weapon matters, that the action is in our best interest.

It struck me in looking through this amendment that such a review, say by the National Security Council process, would be very helpful in strengthening our position, and that is the only comment I would make on that.

Mr. ZABLOCKI. That is a very helpful suggestion.

Mr. Chairman, at this time I presume I do have the support for the amendment of the Defense Department.

POSITION OF THE DEPARTMENT OF STATE ON THE ZABLOCKI-FINDLEY AMENDMENT

Could the representative of the State Department, Mr. Kratzer, comment on the proposed amendment?

Mr. KRATZER. May I do so, Mr. Chairman?

Mr. Chairman, I have made the point that we do share the same objectives in the regulation of nuclear energy.

In specific response to Mr. Zablocki's question, I think the control of exports, the regulation of exports, is clearly one of the important tools that we have at our disposal to achieve our nonproliferation objectives.

Now, the manner in which we use that tool, I think, is extremely important. I think that it is possible to use it in a way which can either advance our nonproliferation objectives, or, in some cases, actually defeat them. We have agreements for cooperation. These agreements were entered into in most cases for very long terms. They were reviewed by congressional procedures in effect at the time that they were entered into.

The purpose of those agreements, by and large, is to provide our partners, the countries with whom we cooperate in the nuclear field, with strong assurances that we will meet their peaceful nuclear requirements for materials and for equipment as long as they fully comply with the agreement.

Now, I think and believe that it is very important to the achievement of our nonproliferation objectives that we do what we are expected to do; in other words, that we fulfill our commitments under these agreements. In some cases, those agreements do not contain all of the policies that we are now pursuing, at least in the same degree of intensity that we now feel might be desirable.

I think that it is important in regulating our exports under these agreements that we fulfill our commitments, that we not depart from them and give the other party, not only the other party to the agreement, but all other countries who are relying upon us for nuclear materials and equipment, reason to doubt the reliability of our commitments. Because, if we do that, then we will encourage them to develop their own sources of supply, to look elsewhere for sources which may not have nonproliferation policies as strict as our own.

I am sorry for that lengthy interruption but the point is that many of the objectives included in the amendment which you have introduced are ones that we completely share.

We do have a concern that there is a sort of unilateral approach to the imposition of these controls which would, in some cases, cause us to fail to fill commitments which we have made. I believe that that would set back rather than advance our nonproliferation objectives.

In addition to that, I believe that the amendment in its present form does not take into account that we realistically have to take account of the policies of other suppliers. We can do only so much on our own. We have to be able to persuade other suppliers to follow similar policies or we will simply lose our influence in advancing the nonproliferation objectives which we all share.

Mr. ZABLOCKI. But you did state that you have had conversations, you have had negotiations with other suppliers.

Mr. KRATZER. We are doing that and we have moved in the direction that I think we all want to move in, a greater restraint in the supply of reprocessing facilities and a greater restraint in the performance of reprocessing on a national basis, but there is not a complete uniformity of policies in this area yet on the part of suppliers.

Mr. ZABLOCKI. I don't think there is yet uniformity of agreement within our own branches of Government.

I will ask you this question, Mr. Kratzer:

U.S. GOVERNMENT COORDINATION

Do you believe there is enough coordination between the various departments and agencies of our Government in devising an intelligent and effective nuclear export policy?

In our hearings, I have detected different views and policies between our agencies and departments.

Mr. KRATZER. Mr. Chairman, I believe there is a great deal of coordination. That does not mean that there is always a unanimity of views, but I think the differences in our views and objectives are minimal.

Mr. Cotter mentioned in his testimony that at this very time there is a White House task force under the chairmanship of Mr. Fri, of ERDA.

Mr. ZABLOCKI. When do you expect to have the task force report?

Mr. KRATZER. The target is early September.

Mr. ZABLOCKI. Of this year?

Mr. KRATZER. Yes, sir.

Mr. ZABLOCKI. We will look forward to it.

I have 30 seconds left. I think I will yield to Mr. Findley because I think he has a question.

Mr. FINDLEY. Thank you.

INTERFERENCE WITH EXISTING AGREEMENTS

Mr. Kratzer, the amendment which has been discussed here was very carefully drafted so as not to interfere with any existing agreements.

Now, you have raised a question as to whether it might put a cloud over our willingness to fulfill commitments, and I would like to have you be very specific about what part of the amendment would cause you that concern.

Mr KRATZER. Thank you very much, Mr. Findley.

I did receive this morning a slightly modified text.

My own review has been based on another text.

I will try as I go along in answering your question to make sure that the two are equivalent in the areas that I am concerned about.

One of these is paragraph 2 of the earlier text which states:

> No license may be issued for the export of any nuclear reactor pursuant to agreement for cooperation unless the Secretary of State certifies that the recipient country has agreed that the provisions of the agreement concerning the processing of special nuclear material received from the United States shall apply equally to all special nuclear material regardless of origin.

Now, I would say the majority of our earlier agreements do make a distinction insofar as reprocessing provisions are concerned between material which we supplied and material of other than U.S. origin, irradiated in the same reactor. That means that if we were to follow this provision, and I haven't had an opportunity to determine whether it still appears in your latest draft, we would be required, I think in a number of cases, not to meet our commitment.

Mr. FINDLEY. Mr. Chairman, I know I am imposing on someone else's time.

We can pursue this further.

It is very clear that the language before you is not the language that will be submitted to the committee. The language says:

"No agreement for cooperation may be entered into with any foreign country," and that has to be read as, "No new agreement."

Chairman MORGAN. The time of the gentleman has expired.

Mr. WINN. Thank you, Mr. Chairman.

AVAILABILITY OF PLUTONIUM

Mr. Kratzer, I have one question for you and one for Mr. Cotter.

Whether or not a country reprocesses its spent fuel on its own soil or in another country, does not reprocessing permit a country to have on hand reprocessing fuel which gives ready access to plutonium? In fact, one reactor load of reprocessed fuel in a 1,000-megawatt reactor may have as much as 50 bombs' worth of plutonium.

Is that not true?

Mr. KRATZER. Is this question directed to me?

Mr. WINN. Yes; I think so.

Mr. KRATZER. Yes, sir; the amount of plutonium contained in even a single charge of a large power reactor is quite substantial. I think the figure which you have is very close to the precise one.

The possession of reprocessing by a given country is one of the steps which can lead to the accumulation of plutonium in large quantities. It is not the entire story. We are concerned not only about reprocessing but about all of the steps, the storage of any separated material, its subsequent use, fabrication, and recycling which are generally referred to as the back end of the fuel cycle.

Reprocessing alone, of course, as you say, does lead to the separation of plutonium.

There are studies going on to determine whether in those cases where reprocessing does take place, and it may not be possible for us always to avoid or deter it in every country, whether it would be possible to have that plutonium promptly delivered to an international storage site operated by the International Atomic Energy Agency.

In other words, there are possible means for avoiding the stockpiling of plutonium which can either supplement the avoidance or considerably improve upon the situation in certain instances where it takes place, notwithstanding our efforts.

NATO STRATEGIC NUCLEAR FORCES

Mr. WINN. Mr. Cotter, if our NATO allies were to invest more money in strategic nuclear forces of their own, what would be the impact on the European force posture and upon NATO conventional force reforms?

Mr. COTTER. I think it is clear that every one of us has a money problem, our allies included, and the diversion of money to nuclear capabilities—in NATO, for example, the agreement is that the United States and the United Kingdom would supply the nuclear forces—any diversion of that would impact adversely on one of our major goals which is to improve the conventional posture of NATO.

NUCLEAR THEFT OR PROLIFERATION THE REAL PROBLEM

Mr. WINN. A last question.

Do you think, Mr. Cotter, that we have paid too much attention to the problem of the theft of nuclear material by terrorists and not enough to the threat of a growing accumulation of dangerous weapons grade material like plutonium by the sovereign states, themselves?

Mr. COTTER. I am sorry; I missed the very last point.

Mr. WINN. The threat of the growing accumulation of dangerous weapons grade material like plutonium by the sovereign states, themselves.

Mr. COTTER. Let me break that down.

Do we pay too much attention to the terrorist threat?

I think the answer is no.

That is a very difficult problem. We must pay a lot of attention to it.

Have we paid enough attention to the spread of weapons grade material?

I think the answer is "No."

Mr. WINN. I didn't hear your answer.

Mr. COTTER. I think that we have not paid enough attention to that.

Mr. WINN. Have not paid enough attention?

Mr. COTTER. Yes.

Mr. WINN. What would you suggest that we do then to give it more attention?

Mr. COTTER. I think the initiatives that the administration is undertaking, the review that is going on in Mr. Fri's committee, is keyed to how we can safeguard the entire fuel cycle and keep tabs on weapons grade material.

I think there is still a need to convince other material suppliers that they need to take adequate safeguards.

So, there is a lot of room here for more activitism in our policy with the other supplier nations.

Mr. WINN. Are you optimistic or pessimistic about those possibilities at this time?

Mr. COTTER. I am much more optimistic than I was a few days ago.

Preparing for this hearing caused me to study what all was going on in the administration, and I think there is some room for optimism here, but it is a very difficult problem.

Mr. WINN. Do you have input into the administration along that line?

Mr. COTTER. The Department of Defense is participating in the Fri study.

Mr. WINN. Thank you very much.

Thank you, Mr. Chairman.

Chairman MORGAN. Mr. Wolff.

Mr. WOLFF. Thank you, Mr. Chairman.

CHINA: TUNNELS AS DEFENSE AGAINST NUCLEAR ATTACK

Mr. Cotter, we have heard recently a number of statements made as to a possible flash point in the world, the Republic of China and the People's Republic of China. The People's Republic of China has based its defense strategy on a Mao directive to dig tunnels deep and store grain everywhere.

What is the view of the Defense Department regarding tunnels as a defense against a nuclear attack?

Mr. COTTER. The pictures I have seen of the Chinese, a civil defense program or protective program, is very impressive. There is actually an unclassified film that shows the survival of animals, farm animals, and material in some of these tunnels. They did dig them, detonated a nuclear device and had a high degree of survivability.

Mr. WOLFF. In other words, you do have an appraisal that these tunnels are a defense against a nuclear attack?

Mr. COTTER. I think there is an indication; yes, sir.

Mr. WOLFF. If that is true, why haven't we done likewise?

Mr. COTTER. There was a fairly significant proposal for a civil defense program in this country in the early 1960's which did not seem to get the support of the public.

Mr. WOLFF. Was the public aware of the same type of material that has been given to you as to the survival rate.

Mr. COTTER. Yes, sir; I think there are some studies that have reached the public.

Mr. WOLFF. Wasn't that test of survivability made after the decision was reached here?

Mr. COTTER. Yes, sir. Those tests were made in the mid-1960's. You remember, China detonated its first device in 1964.

TAIWAN: PURSUING A NUCLEAR CAPABILITY?

Mr. WOLFF. On that question, I notice you did indicate in your statement that the removal of our troops would tend to cause some of these nations to go nuclear on their own.

Do we know anything of the Taiwan intention as to its nuclear capability? Recent statements made by some Senators and myself as well as others on this committee have indicated that the PRC would not rule out the use of force in retaking Taiwan.

I am just wondering whether or not this has prompted any reaction on the part of the Chinese, that is to say, the Nationalist Chinese. Do we know anything about this?

Mr. COTTER. I have heard the same story.

There have been press reports that they want to pursue a nuclear program. I don't have any hard evidence on that, though.

JAPAN: NUCLEAR ASPIRATIONS?

Mr. WOLFF. What effect would this have upon Japan?

Mr. COTTER. If the Republic of China——

Mr. WOLFF. Yes; or if any of the other nations in the surrounding area went nuclear.

Mr. COTTER. I should think, and this is just a personal opinion, I think it would cause the Japanese to think seriously about its own position in the world.

Mr. WOLFF. Haven't the Japanese thought seriously about this before even with our troops out there?

Mr. COTTER. Whether or not to acquire nuclear capability?

Mr. WOLFF. It is said that the Japanese—I believe that Nokunura said something about the fact that the Japanese are about 6 months pregnant as a nuclear power and they put it in a state of suspended animation.

Mr. KRATZER. Mr. Wolff, I would want to point out that Japan recently became a full party, ratified the Non-Proliferation Treaty after a lengthy debate, after 6 years of debate in Japan. I think it is clear that there have been elements in the Japanese society who have felt that the retention of a nuclear option was in their national interest and their security interest.

I think it is equally clear that there is a tremendous consensus in Japan in just the opposite direction. I think Japan is firmly committed not only legally through its adherence to the Non-Proliferation Treaty but through national policy to not acquire nuclear weapons.

Mr. WOLFF. You did say in this report that in the event there was a country that had a capability it would take them a short time to tool up for military use of the nuclear power that they had already achieved.

Am I correct in that?

Mr. COTTER. What I said, I believe, was that preparing the nonuclear components of a weapon is something that could go on and would be very hard to detect. Then, if you had access to an amount of plutonium or enriched uranium, then it would take a short time to make the full assembly of a weapon.

Mr. WOLFF. Isn't Japan in that position today?

Mr. COTTER. I certainly think Japan has the technology to do the whole job.

Mr. WOLFF. They have the delivery system, too, do they not?

Mr. COTTER. They have some airplanes.

Mr. WOLFF. Have they not conducted some space experiments, as well?

Mr. COTTER. Yes.

Mr. WOLFF. With U.S. packages?

Mr. COTTER. Yes.

The technology for delivery systems would be readily available to the Japanese.

Mr. WOLFF. Thank you very much, Mr. Chairman.

Chairman MORGAN. Mr. Lagomarsino.

Mr. LAGOMARSINO. Mr. Cotter, as a cosponsor of the amendment, and I would not presume to call it the Lagomarsino-Zablocki-Findley amendment, I am disappointed by Mr. Kratzer's lack of support at this time.

Mr. Wolff talked about Japan.

FRENCH AND GERMAN INTEREST IN STEMMING SPREAD OF NUCLEAR WEAPONS

I would like to direct your attention to the NATO situation and the fact that the West Germans and the French have an interest in selling nuclear reprocessing plants to other nations.

Now, both of these countries are dependent in varying degrees, Germany perhaps more than France, on the United States for their own security.

Don't the French and the Germans share a common interest with us in reducing the ease with which other states can acquire nuclear weapons?

Mr. COTTER. I should certainly think so.

Mr. LAGOMARSINO. Why is there not a greater awareness of the problem in the nations of the West?

Mr. COTTER. I don't know the precise answer to that.

The program that started back 20 years or so ago, atoms for peace, just grew and grew.

As I think I mentioned before, there was not enough emphasis placed until recent years on the national security aspects of it.

Mr. LAGOMARSINO. But there certainly has been that interest and awareness.

Mr. COTTER. There has been an interest and a growing awareness.

Mr. LAGOMARSINO. Perhaps Mr. Kratzer can comment on this.

Is my impression correct that the West Germans and the French are just not as concerned about this as they should be?

Mr. KRATZER. Mr. Lagomarsino, I don't believe it would be accurate or fair to state that they are not as impressed with the problem, that they are not as concerned with the problem, as we are.

CHANGE IN PERCEPTIONS

There has been in the past a difference in perceptions as to how to deal with that problem and specifically, in the area of the danger of reprocessing under safeguards, I think it is fair to say there has been a difference in emphasis.

I think in order to put this in perspective we have to go back a few years.

We have changed our perceptions. It was a generally accepted proposition in the administration of peaceful nuclear cooperation programs in the past that various activities, including activities such as reprocessing, if conducted under safeguards, were acceptable. Germany in particular, has never departed from that point of view.

I would point out, as I did in the case of Japan, that Germany is a party to the Non-Proliferation Treaty, and that not only imposes on them certain obligations with respect to the nonacquisition of nuclear weapons, themselves, but also certain obligations with respect to their own supply activities to others. In other words, they must supply equipment and materials to others only on the condition that all of those supply arrangements be subject to safeguards of the IAEA. They have always fulfilled that obligation.

the facility that the Federal Republic has agreed to sell to Brazil

Now, what has happened, and this has happened since the 1974 India nuclear explosion, in the review that we and others conducted of our nuclear cooperation policies, is that we have changed our views as to the proliferation risks of activities such as reprocessing. We believe in the effectiveness of safeguards. We believe that safeguards when effectively applied by the international agency can detect diversion, but we still are not comfortable with having these activities conducted, even under safeguards, because if the safeguards are abrogated, if they are disregarded, if they are violated, that dangerous facility and the potentially dangerous material are still there in the country.

So, we have changed our views. It has taken some time to bring other countries along with this change in views.

Now, I am confident that there has been a substantial amount of progress in that direction. I think that all of our supplier colleagues have greatly increased their concern, their awareness, of the dangers of these activities and that they are exercising a great deal of restraint in conducting them.

But I think it is probably correct that there is still some gap in our view as to just how dangerous these activities are when conducted under strict safeguards of the international agency.

I might stress that all of these supply arrangements, and we have not favored many of them, you are quite right, have safeguards, the facility that the Federal Republic has agreed to sell to Brazil and other facilities that France has agreed to sell, all of these facilities will be subject to strict safeguards by the IAEA. So, these are not irresponsible arrangements.

I think there is a difference of opinion on the part of these countries as to just how crucial the role of supply is in adding to the proliferation potential of a given country which may already be at the threshold of being able to undertake these same activities without any outside help at all.

UNITED STATES AS AN EXAMPLE

Mr. LAGOMARSINO. It is the feeling of some of us, the sponsors of this amendment, that one way to make plain to these countries exactly how we feel about it, and, hopefully, they will follow suit by adopting the amendment, is by saying that even though we have not perhaps convinced you all the way, that we are going to do this in the hopes that you will follow suit.

Of course, if they don't, I guess we could always reassess our position if we felt that were the thing to do.

TIME TO DEVELOP A BOMB

Mr. Cotter and/or Mr. Kratzer, assuming, that a country has been doing secret work on weapons research, assuming also that a country has acquired through normal commecrial nuclear exports and reprocessing the necessary weapons material, plutonium, how quickly might such a country be able to convert its plutonium into a nuclear weapon? What is the time frame that we are concerned about?

Mr. COTTER. If we assume that the material has already been separated?

Mr. LAGOMARSINO. Yes; assume they have the plutonium.

Mr. COTTER. I think it would depend on the nature of the device they are building. I think it would be a short time. It would be a matter of hours to days to make a bomb assembly.

Mr. LAGOMARSINO. Would you agree with that, Mr. Kratzer?

Mr. KRATZER. I defer to Mr. Cotter's expertise in this area.

Certainly, my information is that the conversion of separated fissionable material to an explodable device can be accomplished quickly, particularly if there has been advance preparation.

The question of whether that gives the country a meaningful military nuclear capability I think is a much more difficult question to answer, and I think that the time scale there can and normally would be very much longer.

Mr. LAGOMARSINO. You certainly would have the potential for serious problems even if you had one very clear device such as the Indian device.

Mr. KRATZER. I think that is correct.

NATO STRATEGIC NUCLEAR FORCES

Mr. LAGOMARSINO. Mr. Cotter, if our NATO allies were to invest more money on strategic nuclear forces of their own or, in some cases, commercial money even, what would be the impact on the European force posture and upon NATO conventional force reforms?

Mr. COTTER. I believe I had a similar question before on this.

As I mentioned, one of our major goals in NATO is to improve our conventional capability, and diversion of resources into independent nuclear forces would have an adverse impact on that goal.

Mr. LAGOMARSINO. There might be a tendency to rely on that.

Mr. COTTER. To rely on independent nuclear weapons. It would be a negative effect. We are trying to raise NATO's nuclear threshold, not lower it.

Mr. LAGOMARSINO. So, it could have exactly the opposite effect that we intend it to have?

Mr. COTTER. That is correct.

U.S. CONTROL OVER NON-U.S. NUCLEAR MATERIAL

Mr. LAGOMARSINO. Mr. Kratzer, I think you do believe we should try to exercise more influence on non-U.S. nuclear material that is used in foreign reactors, at least U.S. reactors.

Mr. KRATZER. Yes.

I think in our future negotiations it is entirely proper for us to attempt to apply the same ground rules to any material which is ir-

radiated in a reactor which we have supplied. Whether we can be successful in that remains to be seen.

Mr. FINDLEY. You say we should attempt to apply.

Why not just apply?

Why not just set that forth as a stipulation?

Mr. KRATZER. Mr. Findley, as I indicated earlier, unfortunately we don't have the capability to unilaterally set the ground rules for nuclear cooperation. There are other suppliers. There is a substantial indigenous capability to conduct nuclear programs in many countries.

I think that we have to pursue our objectives in a manner that maximizes the overall nonproliferation results that we are trying to achieve.

You are quite right. We can unilaterally set the conditions of cooperation as far as our own supply arrangements are concerned. There is no question about that. We have every right to do that. Whether that will really advance our nonproliferation objectives is a much more difficult question to answer. That depends on what other suppliers do and that depends, also, on the indigenous capabilities that countries inherently have and might otherwise be attempting to maximize.

I do not think it is really in our interest to say that in every case where we have a nonproliferation, not an objective, but a nonproliferation policy or mechanism that we would like to adopt, that we do so unilaterally without regard to the consequences.

Chairman MORGAN. The time of the gentleman from California has expired.

Mr. Fountain.

Mr. FOUNTAIN. Thank you, Mr. Chairman.

I note that staff has prepared a supplemental list of questions which are pertinent to this extremely important subject. I would like to suggest that those questions which are not in substance asked by members of the committee be submitted to the witnesses so that they might supply the answers for the record.

Chairman MORGAN. Without objection, that will be done.

[The questions were subsequently answered during the hearing.]

MULTINATIONAL REPROCESSING CENTERS

Mr. FOUNTAIN. Mr. Cotter, what is your opinion as to whether or not nuclear proliferation might best be curbed by such expedients as multinational reprocessing centers?

Mr. COTTER. Whether or not they are national facilities or multinational facilities, I think depends on the details of the arrangements as to who owns the material that is processed and what controls there are on it.

The key thing is making sure that we don't allow indigenous stores of bomb grade material to build up in some of these countries. I think it is quite clear that that is the problem. It doesn't matter whether it is in a national facility or multinational facility. It depends on the arrangements.

Mr. FOUNTAIN. Then such centers would not solve the critical problems.

Mr. COTTER. Not unless the controls are adequate.

Mr. FOUNTAIN. Would large quantities of plutonium still be available in the form of ready-to-use reactor fuel even if you had that kind of setup?

Mr. COTTER. I am not familiar with the details of this.

Perhaps Mr. Kratzer is.

Mr. KRATZER. I think that Mr. Cotter has analyzed this issue in exactly the same way that I would. I think the critical problem is the availability of plutonium under national control.

As I indicated in an earlier response, reprocessing is one of the elements in determining whether that plutonium is available under national control but not the only one.

The idea of the multinational reprocessing centers on which we have spoken on a number of occasions and which we are actively investigating not only on a national basis but through the International Atomic Energy Agency, is to provide a possible mechanism to meet the demand for reprocessing and recycling of plutonium in a manner that may be, if the controls are adequate, acceptable from the nonproliferation point of view.

I think there is some misunderstanding that we have promoted multinational reprocessing centers and I think that is not quite the case. What we are trying to accomplish is to deter reprocessing and subsequent fuel cycle operations under national control. One means of fulfilling that objective in certain special instances may be the use of multinational reprocessing centers.

It is clear that this is a difficult problem, that the administrative and legal arrangements to bring these into being, the managerial arrangements, are going to be hard to achieve. I believe there is a good chance that in some selected instances, not as a universal solution, but in some selected instances they will come into being.

Mr. FOUNTAIN. Would our sponsorship of multinational reprocessing centers indicate our enforcement of the feasibility of reprocessing despite the fact that the economic viability of nuclear reprocessing is still very distant and unproven?

Mr. KRATZER. Your question gets to the point that I was trying to deal with a moment ago.

We are not promoting multinational reprocessing. We are trying to deter national reprocessing. At such time as reprocessing becomes economically viable and we have to meet that demand, then the multinational approach may be one of the attractive ways of doing so.

U.S. CONTROL OVER NON-U.S. FUEL

Mr. FOUNTAIN. In view of the fact that we already maintain control over U.S. fuel in U.S. reactors and U.S. fuel in non-U.S. reactors, why should we not try to exercise equal control over non-U.S. fuel in non-U.S. reactors, or has that question been asked?

Mr. KRATZER. My answer is that we should by all means try to do so but we have to balance the achievement of that objective against its affects on other nonproliferation objectives which we have.

Chairman MORGAN. Mr. Findley.

INTERFERENCE WITH EXISTING AGREEMENTS

Mr. FINDLEY. Mr. Kratzer, earlier in your testimony you cited two concerns you had about the amendment: First, that it would have the danger of altering existing agreements.

Since you made that comment, I have read very carefully the language which will be presented to the committee as the amendment.

I believe your fears are unjustified.

I suppose at this point there is really no point in going into that in detail because you don't have the final language before you.

UNITED STATES AS AN EXAMPLE

But you also stated that we ought to take into account the attitude of the other suppliers. I have pondered over that and I cannot escape the conclusion that if the United States doesn't set an example in this realm the example will not be set.

Would you agree with that?

Mr. KRATZER. I think we always have to be ahead. I think we have to advocate the policies that we consider proper and, by and large, I would accept the proposition that we have to apply them, but if we get too far ahead then we really are out of the picture.

In other words, if we adopt policies which are not realistically attainable, which are unacceptable to the various countries who are anxious to move into the nuclear power age, then we will not be able to exercise influence because other suppliers will look at us and reach the conclusion that there is no competition from us because our policies are not acceptable.

So, it is a very delicate and very difficult balance to strike between being ahead but not being so far ahead that we are out of the picture.

Mr. FINDLEY. Your comment just now comes down to dollars and cents, as I interpret it, that we run the risk of losing business in the international nuclear market if we are not careful about trying to apply these safeguards.

Is that a fair assessment, dollars or cents?

Mr. KRATZER. It is much beyond that.

Mr. FINDLEY. What is it?

Mr. KRATZER. The commercial interest, while it is worth pursuing, is never of sufficient importance to cause us to compromise our nonproliferation objectives.

My concern is that if we pursue policies which are so far out of line with those of other suppliers and are unacceptable to recipients that we will not have the opportunity by being a viable competitor, to cause other suppliers to modify their policies accordingly.

I think that we have to work with them very, very closely and advocate the policies we believe in and we are doing that with considerable success. It cannot be done unilaterally, in my view.

INDIA: DEFINITION OF PEACEFUL NUCLEAR USE

Mr. FINDLEY. Speaking of success, we tried to get the Indian Government to accept our definition of what constituted peaceful nuclear use, did we not?

Mr. KRATZER. Yes, sir.

Mr. FINDLEY. When they refused, what did we do? Did we use that leverage?

Mr. KRATZER. You are referring to the actions which the United States took in 1974 after the nuclear explosion?

Mr. FINDLEY. That is right. They refused the definition that gave us the opportunity to kind of crack down, in a sense, to take a firm position, and terminate the arrangement. We chose not to and the result was a nuclear explosion.

Mr. KRATZER. I think at the point when that decision was before us they had already undertaken their nuclear explosion.

Here again we have to make some very, very difficult balances. We could refuse further cooperation, and it may well be that the effect of doing so would be to allow India to have unrestricted use of some rather substantial quantities of plutonium which have been accumulated at that U.S.-supplied reactor in the meantime.

U.S. LEADERSHIP

Mr. FINDLEY. We today have what I think most people regard as a substantial command position in the international nuclear field. This will tend to diminish as time goes on.

I think we ought to use that command position to set the very best example we can. I think we have demonstrated in the past that by taking a lead we have drawn other nations along with us.

I believe I am correct, but the United States is out front of the IAEA safeguard initially. It was because the United States was willing to step out and take a controversial position and thus be an example to other nations that this whole enterprise succeeded.

Mr. KRATZER. Mr. Findley, we have been the leaders in this field from the very beginning. All the major nonproliferation mechanisms, all of the major nonproliferation policies, I think it is correct to say that the United States is the principal author of them; the IAEA, itself, the concept of safeguards, and the safeguards system.

I completely agree we have to be in the lead. Our differences are small. It is a matter of degree. I do believe we have to exercise that leadership with a certain amount of moderation.

CANADIAN POLICY TOWARD INDIA

Mr. WINN. I just wondered, Mr. Kratzer, if you can tell us what the Canadians did after the Indians exploded their device. What did they do about the agreement?

Mr. KRATZER. Following the Indian explosion, the Canadians suspended future cooperation with India. During that time, and up until approximately 2 or 3 months ago, they attempted to negotiate a new arrangement with India that would allow them to continue cooperation on terms that they found acceptable.

They were unable to do that so that 2 or 3 months ago they announced they finally decided to discontinue those efforts.

Mr. WINN. They terminated the agreement?

Mr. KRATZER. The agreement that has existed has not been terminated. They are no longer implementing it. It may be a technicality. In their view, it is not terminated but it is no longer being implemented.

Chairman MORGAN. Mr. Bingham.

IAEA DISSEMINATION OF INFORMATION

Mr. BINGHAM. Thank you, Mr. Chairman.

I do find it a little unsatisfactory that you don't have in front of you, Mr. Kratzer, apparently the last version.

Mr. KRATZER. I received it this morning but I have not had an opportunity to study it. I would like to do that very much and supply the Department's views.

Mr. BINGHAM. If you do have it in front of you now, let us take a look at the bottom of page 2 which has to do with making no new agreement, as we understand it, for cooperation, unless—and there are conditions A and B.

Now, condition B is that:

> The foreign country has agreed to permit the IAEA to report to the United States upon a request by the United States on the status of all inventories of plutonium, uranium 235 and highly enriched uranium which are held in storage by that country.

What is your reaction to that?

Mr. KRATZER. I think the International Agency has exercised, unfortunately, an excessive amount of restriction on the information, on the dissemination of information which we, along with other members of the Agency, not just ourselves, really need to judge the adequacy of their implementation of safeguards.

We have pointed that out to the International Agency and they are moving in the direction of increasing the information, the availability of information, in this field.

Now, I have some concern that a provision of this nature would have—in other words, I agree with the objective that we need more information on Agency safeguards implementation. I think the best way to get that is to cause the IAEA to modify its own dissemination policy because we are only one member and if we attempt to impose on the Agency to which we have entrusted the safeguards responsibility, a requirement to give us information which is not generally available to other members of the Agency or even to other members of the Agency's Board of Governors, I think we run the risk of undermining the acceptability, the credibility of the very safeguards that we have tried so hard to promote.

I think it is particularly a problem that this provision would extend not only to reports to the United States on the status of the material which we have supplied but on the status of any material which that country may have, regardless of its origin. I think that would be difficult to negotiate with other countries, and I think it would be very hard for the Agency to swallow.

Mr. BINGHAM. That, of course, is the way it reads.

Mr. KRATZER. Yes, sir.

Mr. BINGHAM. It is not limited to——

Mr. KRATZER. That is right.

I assumed that that was an intentional feature.

COOPERATION WITH THE IAEA

Mr. BINGHAM. Are there some countries that don't want to cooperate with the IAEA for reasons of their own?

Mr. KRATZER. Cooperate in the sense of allowing the Agency to apply its safeguards or in the sense of allowing the Agency to disseminate the information on the results?

Mr. BINGHAM. The former.

Mr. KRATZER. All of our partners have accepted Agency safeguards. That is a firm part of our policy. We certainly are not going to depart from it.

Mr. BINGHAM. What about the Government of Israel?

Mr. KRATZER. On the cooperation that we extend agency safeguards are applied.

Now, any country which has become a party to the Non-Proliferation Treaty must accept Agency safeguards on everything. Countries which have not become party to the treaty—as Mr. Cotter pointed out, there are still several important countries—are not required to accept agency safeguards and, in general, few, if any, have volunteered to do so except on the materials which they have obtained from outside suppliers on condition that agency safeguards apply. Israel is in that category, and several other countries are.

IAEA INSPECTORS

Mr. BINGHAM. Does the application of agency safeguards mean that agency personnel will be involved in inspection procedures?

Mr. KRATZER. Yes.

In any significant activity, reactors and the like, inspections are actually conducted on site by Agency inspection personnel. Frequency and intensity of the inspections depend on the size and nature of the activity.

Mr. BINGHAM. The host country has the right to reject individual inspectors?

Mr. KRATZER. It has the right to reject individual inspectors but not ad infinitum. In other words, not to the extent that that would impede the Agency's ability to conduct satisfactory safeguards.

LICENSES FOR NUCLEAR EXPORTS

Mr. BINGHAM. Looking further at the draft amendment, on page 3, paragraph 3(a), that paragraph appears to apply to licenses issued for the export of nuclear materials, equipment, and so forth, pursuant to existing agreements. Yet, it indicates that those exports will be subject to further restrictions than may be contained in the existing agreements.

Is that part of what concerns you about the amendment?

Mr. KRATZER. As I indicated earlier, I was looking at an earlier version.

I do want to study this and submit my comments to you very promptly.

That particular provision certainly is one that we are committed to, not only as a matter of policy, but by operation of the Non-Proliferation Treaty.

Mr. FINDLEY. It is not a new stipulation? It is not a new policy?

Mr. KRATZER. No; it is not a new policy. It is a fact that we have a number of agreements entered into in most cases some years back in which the prohibition was stated in terms of nuclear weapons and not in terms of all nuclear explosive devices.

We have been engaged over the past several years in an effort to make that prohibition more explicit through a variety of mechanisms. In many cases, we have exchanged notes with the country concerned. In other cases, we have made unilateral declarations. We have made unilateral declarations in the Board of Governments of the International Atomic Energy Agency in the most emphatic terms, indicating that any agreement which we have which requires that our assistance not be used for nuclear weapons prohibits any kind of nuclear explosive device because we can't distinguish between the two.

I would have to study this and I think it would have to be subject to some legal review, as well, to make certain that the language is satisfied by the various kinds of mechanisms I have just described, because we do have agreements of long standing where the prohibition is not absolutely explicit.

Mr. BINGHAM. Based on what you say and what Mr. Findley says, it is curious that there is a delay in the effective date of that requirement of 1 year.

Let us pass to No. 4.

ADEQUATE WARNING

There is a requirement there that the Secretary of State shall determine that safeguards can be applied effectively only when it can be assured that the reliable detection of any diversion and the timely warning to the United States of such diversion will occur well in advance of the time in which that party can transform strategic quantities of diverted nuclear material into explosive nuclear devices. That imposes a responsibility on your Department.

Do you see this as something that the Secretary could determine?

Mr. KRATZER. My understanding of this provision, and it is in somewhat different language than in the version which I had studied earlier, is that it, in effect, is intended, based on our present knowledge to require the Secretary, to refuse any request for the reprocessing of U.S. material by a country which has received our materials of our assistance.

In other words, I believe it is understood by the drafters, and I understand it this way myself, that we would not be able to reach the conclusion that is required, that the safeguards would give us warning well in advance of the time that the party could transform the material.

As we have said here earlier, this transformation of separated plutonium, if it were diverted into some sort of nuclear explosive device, could occur rather quickly, within a matter of days or so.

So, although I don't know what "well in advance" means, in an earlier version it said 90 days, and I assume there has not been a major change in the thinking behind those words.

Mr. BINGHAM. Do you then interpret that to be a roundabout way of saying that the Secretary of State shall not agree to such?

Mr. KRATZER. Yes, sir, I think it has that effect and intention.

While apparently this would become operative not at the time that an export would take place as was the case in an earlier draft of the amendment, it still is a requirement which exists as of now.

Chairman MORGAN. The time of the gentleman has expired.

Mr. Ryan.

Mr. BINGHAM. Could Mr. Kratzer finish his reply?

Mr. KRATZER. My understanding of the present language, and I do want to study it further, is that it would become operative at the time that any request was received for reprocessing.

But, to the extent that the requirement exists at the present time, and other parties know of the existence of that, I believe that it could have a very serious effect on our ability to engage in the sort of nuclear cooperation which I think generally serves our nonproliferation interest.

In other words, it is not clear to me that other countries will generally accept a prior condition that at some future date, which may be many years hence, no reprocessing will be permitted.

That is my current view of this, but I do want to study it further.

Chairman MORGAN. Mr. Ryan.

ACCOUNTING OF PLUTONIUM SUPPLIES

Mr. RYAN. How many nuclear plants are there in this country presently producing plutonium as a byproduct?

Mr. KRATZER. As I indicated earlier, we have no commercial reprocessing plants in being.

If you refer to the reactors, themselves, that produce plutonium but not in useful form until reprocessing takes place, there are about 50 or 60 commercial power reactors in operation.

Mr. RYAN. Does the U.S. Government have adequate accounting procedures for all that material?

Mr. KRATZER. At the reactor level, and this is an area which is not in my responsibility, so I do not want to tread on anyone else's toes, at the reactor level I think accountability is quite satisfactory.

Reactor materials accountability is relatively straightforward because you can count the pieces that go in and you can count the pieces that come out.

Mr. RYAN. Is there any thruth to the statements that I have heard that the AEC, now the NRC, loses some of its plutonium by evaporation?

Mr. KRATZER. I think that the reports you are referring to, Mr. Ryan, relate to plants where material is handled, fabricated, and processed in divided form, in other words, not in reactors where fuel elements are put in and the same fuel elements taken out.

The accountability problem in that situation becomes very, very much more difficult.

In virtually any plant of that type, in other words, a reprocessing plant, or a fabrication plant, there is always a certain amount of material which is unaccounted for.

Mr. RYAN. How much?

Mr. KRATZER. Well, in good practice, I think it is less than 1 percent, considerably less than 1 percent.

Mr. RYAN. One percent of how much?

Mr. KRATZER. But it can be a large amount of absolute material.

I don't have the figures which would enable me to answer your question in quantitative terms.

Mr. RYAN. Ten pounds or 10,000 pounds?

Mr. KRATZER. In large fabrication plants, you are talking about possible amounts in the range of tens of pounds or tens of kilograms at any time that in unaccounted for.

Inherently, the words "unaccounted for" does not mean it has been improperly removed or anything of the kind.

There are other ways of assuring those who are responsible for the material that that has not taken place.

Mr. RYAN. Are we sure?

Mr. KRATZER. I think we have a high degree of confidence.

That may sound like I am hedging, but that is the nature of the accountability and control business, that you can only say that a particular result is so with a high degree of confidence.

AMOUNT NEEDED TO MAKE AN EXPLOSIVE DEVICE

Mr. RYAN. How many pounds does it take to make an explosive device?

Mr. KRATZER. The figure used in unclassified discussion is about 10 pounds.

Mr. RYAN. I think if we said 10 to 16 pounds, because yours is the lowest figure I have heard yet in talking to nuclear physicists at the Library of Congress and other places. That is the general figure used, if the assumption is made.

How much plutonium, on an annual basis, is developed in other countries?

SEPARATION PROCESS

Mr. KRATZER. Again, we have to distinguish, I think, between that which is separated and that which isn't. There are many, many thousands of pounds which have been produced and are not separated.

Mr. RYAN. Let me ask about the separation then.

In the separation process, itself, is there any way of a country developing simply a separation process and then getting the unusable material and separating it secretly without general knowledge?

Mr. KRATZER. I believe it is possible to build very small separation plants that might escape detection. They would be small but there is that possibility.

PLUTONIUM POSSESSED BY OTHER COUNTRIES

Mr. RYAN. Let me ask you another question.

Does the State Department make the assumption that there are, in effect, illegal or bandit operations? That there is plutonium in critical amounts in the possession of countries hostile to this country or to the Western World?

Mr. KRATZER. Let me go back to answering the question which I think may be implicit in the one you just asked.

In the safeguard system which is applied by the International Atomic Energy Agency, there is no assumption made that the mere

fact that a country has not declared that it has a reprocessing plant means that there actually is none. In other words, the Agency applies its safeguards to reactors and they account for the material that comes out of those reacros as if there were a separation plant somewhere in the country.

If that were not the case, in other words, if the Agency were justified in relying upon a mere declaration that a particular country had no reprocessing plant, you really wouldn't have to apply safeguards.

Mr. RYAN. I am not talking about reprocessing plants. I am talking about simply the capacity of any country in the world, at least in theory, to either manufacture or to obtain plutonium in a quantity which makes it possible for them to manufacture crude atomic explosives. Once they can manufacture them, they can deliver them by some means or other, no matter how crude.

When we talk about a nonproliferation treaty we presume, and I would like your comment on this, that the proliferation treaty will deal only with those countries that are playing it straight.

I also presume that in the conference in Sri Lanka, which produced some of the most inflated rhetoric regarding Western countries, that some of those countries probably have plutonium in critical amounts or can obtain it in critical amounts and manufacture atomic explosives which they can use without regard to treaties or anybody's knowledge. I think that is the assumption that the emperor has clothes on and he doesn't.

These countries that subscribe to the Non-Proliferation Treaty can be the most responsible countries in the world, but they tend to ignore those other countries that are not even participants in any kind of nonproliferation but who may, in fact, have amounts of plutonium that make them a nuclear power in the sense of being a threat to another country's welfare.

Mr. KRATZER. To be very acutely aware of the proliferation potential of any given country is a constant effort on the part of the intelligence community.

Mr. Cotter referred to that, described one of the mechanisms which is in existence.

So, there is no automatic assumption made that either a party or nonparty to a treaty has not taken some of these steps you are referring to.

NON-PROLIFERATION TREATY

Mr. RYAN. Then what value does a nonproliferation treaty have?

Mr. KRATZER. First of all, it is not a mere pledge on the part of countries not to acquire nuclear weapons.

One of the aspects of the treaty is that the countries' programs are subject to safeguards so that violations have a very good chance, not an absolute certainty, but a very good chance, of being detected.

Now, the value of the treaty, and I think it is a very high one, I think you are right in saying, by and large, one presumes, although you do not presume to the utmost degree, one assumes that they are playing it straight, the value of treaties is that it constitutes a demonstration of compliance so that when a country undertakes peaceful nuclear activities we know it is peaceful, its neighbors know it is peaceful, and you avoid this sort of competitive rush to obtain a military capability or a military potential.

Mr. RYAN. One last question.

Isn't it possible, then, to deliver an atomic device between two hostile countries, not by rockets or by missiles at 5,000 miles an hour, but by donkey cart, if you care to go that way?

Mr. KRATZER. I would have to refer that to Mr. Cotter.

Mr. COTTER. That is certainly correct.

Mr. RYAN. It is possible?

Mr. COTTER. Yes.

Mr. RYAN. So, given the simplicity today of the constructing of atomic explosives, and I use those words rather than atomic devices—just a plain old explosion—using atomic materials, and the state of the art, we cannot assume that any country in the world can't attack any other country with at least some kind of crude atomic explosive and deliver it by the most homely or unsophisticated means? That is possible?

Mr. COTTER. That is possible.

Mr. RYAN. Mr. Chairman, I would just suggest that perhaps some of the assumptions under which this Non-Proliferation Treaty is operating are open to serious reexamination.

Mr. ZABLOCKI [presiding]. That is a good observation. I agree with it.

Mr. Findley.

NUCLEAR PROLIFERATION

Mr. FINDLEY. Mr. Chairman, hearings over which our chairman presided made a very dramatic point and that was that in a very few years we could reasonably expect as many as 40 nation states to have nuclear weapons if they have the willingness to go ahead with it.

Mr. ZABLOCKI. And delivery.

Mr. FINDLEY. And delivery.

I mention that because Mr. Kratzer suggested that some of the objectives of the amendment could better be met by reforming the rules of the International Agency. I certainly think improvements in the IAEA safeguard structure are important. But I think we are under a pretty tight time constraint here and I am not optimistic about getting the rules of the IAEA substantially changed very quickly. I think it will take years.

But here is a step that the United States can take on its own, limited though it is, and it admittedly does entail some risk of losing business and maybe it would entail some other loss of leverage, as you suggest.

It does seem to me in this context with the spector of nuclear weapon proliferation proceeding at such a rapid pace in the next few years we ought to take that risk.

IAEA INFORMATION ON THIRD PARTY NATIONS

Second, you made a comment that the IAEA would probably have to swallow hard to take the stipulation in this amendment under which it would supply on request certain information about third party nations.

Well, it might have to swallow hard but I think you would agree that the information is of little value if it applies only to items de-

rived from U.S. supplied material and if it is only a partial inventory it really doesn't mean much. It has to be complete to have much value.

RESEARCH ON SAFEGUARDS

Finally, Mr. Chairman, I would like to ask Mr. Cotter if he would agree that one important effect of my amendment could be to stimulate research on safeguards that provide real safety rather than what might be described as the simple allusion of safety.

Would you comment on that?

Mr. COTTER. Mr. Chairman, if I might just make one statement.

I haven't read your amendment, this piece of paper here. I saw an earlier copy from Mr. Fortier. I was not expecting to comment on any proposed legislation but just to give the Defense views on proliferation.

With that, let me go on to what I understand from talking to Mr. Fortier is what you have in mind. I think it is very interesting.

I would like to draw an analogy to the weapons program as to how the Defense Department and ERDA go about the research and development of protective features for weapons, and it is a direct analogy to the power reactor program and these other issues you are discussing.

In addition to the Defense Department specifying yield, for example, of a nuclear weapon and reliability and other military characteristics, we have competing priorities and very high priorities on requirements for safety, security, command control devices, disablement features on weapons, nonviolent destruction mechanisms, that help in maintaining the security of these weapons.

Now, those requirements go in as competing characteristics and the designers pay a lot of attention to them.

It is my observation that, given the fact that there is in the laboratories, a lot of technology available and people who have worked on these problems, that requirements placed on reactor designers for security features and protective devices, might be a very interesting thing to provide as additional research and development requirements.

I think it is a very interesting idea and we might be able to find some technical solutions to these problems that could help the political problems along quite a bit. I think it is a very interesting idea.

Mr. FINDLEY. Thank you, Mr. Chairman.

Mr. ZABLOCKI. I might say to the gentleman from Illinois that from my contact and associations with representatives of the IAEA, I think they would welcome the provision.

Any further questions?

The committee stands adjourned, subject to the call of the Chair.

[Whereupon, at 12 noon, the committee adjourned, subject to the call of the Chair.]

APPENDIX 1

LETTER TO CHAIRMAN MORGAN FROM V. J. ADDUCI, PRESIDENT, ELECTRONICS INDUSTRIES ASSOCIATION, SUBMITTING A STATEMENT

V. J. Adduci
President

July 1, 1976

Honorable Thomas E. Morgan, Chairman
Committee on International Relations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Supplementing the June 15 testimony of the Joint High-Technology Industries Group, EIA is priviledged to submit herewith the additional views of its members concerning bill H.R. 7665 to extend the Export Administration Act of 1969.

Very truly yours,

V. J. Adduci

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ELECTRONIC INDUSTRIES ASSOCIATION

2001 EYE STREET, N. W.
WASHINGTON, D. C. 20006

TELEPHONE (202) 659-2200
CABLES: ELECTRON WASHINGTON DC

The Electronic Industries Association (EIA) is pleased to submit for the record its views regarding H.R. 7665 to extend the Export Administration Act of 1969. This legislation, if effectively drawn, can be exceedingly important to firms in this industry who export and to the nation as well. In this regard, EIA essentially endorses, as a co-author, the testimony of the "Joint High-Technology Industries Group," presented by spokesman Peter F. McCloskey on June 15, 1976 before the Committee.

EIA and its member companies endorse the need for a clear-cut national policy on foreign trade. Such a policy is a prerequisite if the U.S. is to maintain a position of leadership - a position essential to the continuing economic growth of the country. The electronic and electronic-related industries production last year amounted to $36.4 billion, of which $7 billion, or nearly 20%, was exported. This in turn generated over 1.5 million direct and indirect jobs within all 50 states.

We therefore have a vital interest in the enactment of an Export Administration Act which would allow the U.S. to enhance its foreign policy, maximize its export potential and at the same time maintain necessary controls on those commodities which, if exported to certain countries, would be direct factors in weakening our national military security.

The Export Administration Act of 1969 attempts to address these points. However, its shortcomings have permitted its administration to become antiquated, cumbersome and out of touch with current world economic realities, so much so that our companies find themselves increasingly non-competitive in overseas markets. In fact, the Act as presently administered, constitutes a major, non-tariff barrier to trade, imposed on U.S. industry by its <u>own</u> government.

Because of the complexity of the subject of export controls and our desire to see a well-polished, viable act, we ask that the committee this time report out a simple 9 month extension of the Act---covering September 30, 1976 to June 30, 1977. This would allow proper time for the necessary in-depth investigation and review of the subject.

If, however, the Committee feels that this course is inadvisable, we urge it to consider specific recommendations, amendments, and revisions in the Act which we will discuss. EIA considers that these would do much to ameliorate many of the present difficulties.

We urge the Committee to exceed the language of Title I of S.3084, making mandatory provisions in H.R. 7665 that will fully recognize the timely processing of export license applications by the Department of Commerce; this to provide competitive equity for American industry in overseas markets.

For the purpose of emphasis, EIA believes that extracts from the Joint Group's testimony should be reiterated:

> "We have the following specific recommendations for amending this Export Administration Act. First, I commend to your attention to Title I of the Bill S.3084 which has been approved by the Senate Banking Committee, and recommend that you adopt this Title with some additions and clarifications. Title I of S.3084 would make the following changes in the current Act:

(1) It would require the Department of Commerce to notify an applicant when his license is being forwarded to COCOM and permit him to review the documentation to make certain it accurately describes the goods or technology for which a license is sought;

(2) It would change the criteria for placing a country on the "controlled list," so that factors other than Communist or non-Communist status are considered (these new factors include potential friendship with the U.S. and willingness to control retransfers of U.S. exports),

(3) It would require an 18-month Commerce Department study, which is to include specification of the control lists; however, in this regard, we recommend the time limit for this report to the Congress should be reduced to 9 months. This is in keeping with the rapid technological advances in our industries.

(4) It would increase the terms of technical advisory committees (TAC's) from 2 to 4 years;

(5) It would require Commerce to consult with the TAC's on COCOM and on a number of other issues, and if their advice is not accepted by the government, to inform them of the reasons. However, we feel that it should be made clear that this feed back should be accomplished in a reasonable period of time. In addition, we feel that there should be inter-industry communication among members of each TAC. Such an exchange of information which is not now permitted can lead to a more efficient, expert, and balanced advisory role for the TAC's and the export control process as a result; and

(6) Title I would also require the Department of Commerce to notify applicants of the specific statutory reason for an export license denial. We endorse this amendment; however, we think it can be strengthened. In our industries where technology moves so rapidly it is possible that certain license applications can be incorrectly evaluated on a technical basis. Many times these technical evaluations give guidance to those responsible for making the licensing decision. We feel that an exporter should be given both the statutory and the technical reasons for a license denial.

Section 4(h) of the current Act empowers the Secretary of Defense to recommend denial of an export if the goods or technology "will significantly increase the military capability" of a country within a controlled destination. In our experience, the Defense Department has incorrectly interpreted this language to mean "will possibly increase." The GAO report of February 1976 highlights this problem and recommends that probable rather than possible military end use be taken into consideration.

Consistent with the GAO report, we recommend that Section 4(h)(1) and 4(h)(2) (A) be amended to insert the words "in all probability" before the words "significantly increase the military capability of the country...".

The Senate Banking Committee did not directly address the problem of licensing delays in their proferred amendments. However, that Committee did adopt very strongly worded report language, making clear Congressional intent that these unconscionable delays should be eliminated. This distinguished Committee should directly address this problem by way of statutory language. Strong policy direction is needed at the highest level of government in both the Executive and Legislative Branches. Without this, no streamlining of the process will be possible. More concretely, we propose that the Congress should be kept informed as to the progress being made in reducing licensing delays to the 90-day objective.

Section 10 of the Export Administration Act could be amended by the addition of a new paragraph (c) as follows:

> "(c) The semi-annual report required for the second half of 1976 and every second report thereafter shall include a summary of those actions which have been taken or which are contemplated to meet or exceed the objective of approving or disapproving export license applications within 90 days of submission, as specified by Section 4(g)."

In addition, this Committee may find that its oversight function will be strengthened, if the Act is extended on an annual - - rather than a 3 - year basis - - until you are satisfied that the delay problem has been properly addressed by the agencies involved.

Without taking exception to the Joint Group's views, EIA would like to suggest that Section 10 of the current Export Administration Act should be first amended by the addition of a new paragraph (c):

> "Within 30 days after the date of this Act, the Secretary of Commerce shall convene a meeting of the heads of all departments and agencies involved in the Administration of this Act to (1) prepare a detailed program for improving the administrative processing of controls promulgated by virtue of this Act. The purpose of this program shall be to shorten the domestic and international review time and render decisions on all export license applications not later than 90 days after date of submittal,

(2) the Secretary shall report his implementation plan and start-up cost of this program to the Congress within 90 days after the date of this Act."

In EIA's opinion this superseding and complementing amendment is needed before the Secretary can follow the reporting requirements recommended in the Joint Group suggested amendment to Section 10.

Some of the chief difficulties encountered by industry in dealing with export controls are administrative in nature. Among these are the unnecessary complexities of the Commodity Control List (CCL) and the Export Administration regulations, the insistence on the unanimity rule by the Operating Committee and the assignment of sufficient numbers of appropriately trained personnel. The attempts to legislate such specifics would, we feel, be counterproductive.

EIA recognizes that legislation must be broad in concept and scope and cannot correct each deficiency in a system which has such deeply rooted and multi-faceted problems. However, the language in the Committee report should spell out the intent of Congress in no uncertain terms. In this way there can be no misunderstanding by anyone of just what is expected.

REGARDING COCOM

During the oral testimony you heard both Defense and State witnesses testify that the list of items embargoed by COCOM was available to U.S. industry. This is not the case. The United States publishes a Commodity Control List (CCL), which we are told has the COCOM items as well as those items unilaterally controlled by the United States. There is no distinction made on the CCL between a COCOM and a U.S. controlled item. U.S. industry therefore is under a competitive disadvantage, since it cannot identify those commodities which our competitors can sell without license. Our members can obtain from the British Board of Trade the control list for the United Kingdom. This we understand is close to the COCOM list. But it seems to us incredible that we should be forced by our own government to such circuitous practices.

Inasmuch as COCOM is not bound by formal treaty we ask that the Congress, by amendment to the Export Administration Act, direct that within 60 days of the Act being signed by the President,

the Secretary either (1) supplement the Export Administration Regulations with a section containing the COCOM list or (2) amend the CCL to show where U.S. and COCOM controls differ.

Further during the oral testimony both State and Defense stated that the other COCOM nations do not allow persons from the private sector to attend sessions as advisors. This also is not the case. We have known instances where U.S. businessmen have represented their foreign subsidiaries at the request of the foreign government during the negotiations. We suggest that our government agencies be directed to utilize the private sector in their COCOM deliberations.

ON BOYCOTTS

We do not believe that additional language relating to the Boycott Issue need be added to the provisions of the current Act. The declaration of policy by the Congress (in paragraph (5) of Section 3 of the Act), effectively expresses the sentiments of the EIA regarding restrictive trade practices. Implementing regulations governing requests to engage in Boycotts, issued by the Department of Commerce (*) are more than adequate to the situation. The present regulations requiring reports from exporters, agents, and banks...and the further requirement and immediate showing of action taken...represent firm policy and enforcement practice against discrimination. Additionally, state and federal anti-discrimination laws are presently available to address this area.

Similarly, where economic discrimination is demanded, our anti-trust laws are the existing and appropriate relief.

As we stated earlier, legislation intended to enhance U.S. export potential while at the same time controlling overseas trade in commodities with military security importance, is addressing questions of such complexity that it should not become a vehicle for hasty amendments and titles not directly germane to the subject. This is particularly so when discussing boycotts.. a subject that requires a rather deliberative and reasoned approach.

* PART 369, OFFICE OF EXPORT ADMINISTRATION REGULATIONS, 369.1-5.

THE BUCY REPORT

For years, the Congress has heard a repeated litany of complaints from a high technology segment of U.S. industry about the ineffectiveness, inefficiencies, and inequities of the U.S. export control policies and procedures. Even Administration witnesses have testified that there is an urgent need for significant improvement.

Two recent studies, the GAO report on the Government's role in East-West Trade, and the report of the Defense Science Board on Export of U.S. Technology (the Bucy Report), have both concluded that the present system of controls excessively restricts the ability of U.S. industry to compete in international trade without effectively controlling the transfer of technology considered significant to the national security interests of the United States.

While the conclusions and recommendations of the GAO study, as well as the expressed intentions of various Administration officials, were to seek to improve the operation of our present product-oriented, case-by-case system, the Defense Science Board Task Force took a fresh look at our established national need to control the transfer of advanced technology and evaluated that need in the light of today's world. Their conclusion was that "...a new approach to controlling technology exports is overdue." The new perspective is based upon the establishment of meaningful policy objectives and the consistent application of that policy to the control of key design and manufacturing know-how. Product controls would be limited to critical items of direct military significance. This is a much simplified statement of the findings of a panel of highly competent government and industrial representatives, but it is this essence which we feel should be the basis for structuring a new U.S. export control system.

The efforts of the Bucy panel were focused primarily on recommendations for the establishment of a sound approach and effective policies from the Defense Department standpoint for a U.S. system of export controls. The matter of how those policies should be implemented was considered to be beyond the scope of their charter.

The Bucy report cannot be considered an overall blueprint for such a new control system or for enabling legislation. The

Commerce Department has the primary responsibility for controlling the export of strategic non-Munitions List products and technologies. The State Department and the Department of Defense are assigned consultative responsibilities. The Bucy Report represents an effort sponsored by and for the Department of Defense and it should be considered in that context. The importance of economic issues to the national military security requires that such considerations be factored into the proposed export control policy. Diplomatic requirements must also be a part of the decision equation. It is therefore essential that Defense Department views, while important, not be permitted to become overriding.

The matter of pragmatic implementation of such policies represents a major problem of critical dimensions. Many of the control concepts of the Bucy reports are adequately defined for the purposes of their assigned study effort but are open to serious disagreement when applied to an operating system of controls. For instance, the Bucy report recommends that the exportability of a product be determined on the basis of its "intrinsic utility." This is acceptable as a conceptual statement but how will the "intrinsic utility" of any given product be determined, by whom, and in what context?

The Bucy panel recommends strong controls on the export of "key technologies." Here again, the determinants for identifying key technologies are subject to debate. Present experience with the Department of Defense shows an almost adamant tendency to restrict the export of systems, equipments and components that encompass technology, some of which predates World War II and is possessed by every developed nation in the world. Thus, we must ask - who will determine what is a key technology? On what basis will the determination be made?

Further, the Bucy report states that "the U.S. should release to neutral countries only the technologies we would be willing to transfer directly to Communist countries." Is this to mean that U.S. industry should close its plants in Israel, Spain, Mexico, Iran, Brazil, Malaysia and other friendly but neutral countries?

In summation, we fully endorse the findings of the Bucy report on the need for an export control system consistent with today's world.

We agree that an effective means of controlling key design and manufacturing know-how, while eliminating the execessive and counterproductive controls on many U.S. products, is fully in the interests of national security. We feel that this report, while not a foundation or blueprint for new or amended export administration legislation, does represent the Defense Department's input towards the creation of such legislation. Taken with inputs from other affected executive departments and from high technology industries as well, the Congress should be able to write legislation that will maximize the U.S. export position economically while insuring our military security.

IN CONCLUSION

EIA hopes that the Committee will give serious consideration to these proposals. It is our view that the changes recommended would produce truly workable legislation, capable of contributing substantially to our shared goals.

APPENDIX 2

STATEMENT SUBMITTED BY THE WESTERN ELECTRICAL MANUFACTURERS ASSOCIATION

The purpose of this statement is to offer WEMA's view on those national security provisions of the Export Administration Act that are of particular concern to the high-technology electronics industries. The statement will explain the problems posed by these provisions and recommended ways in which the Congress could amend the Act to place U.S. high-technology firms on a more competitive basis with their free-world rivals, while at the same time recognizing the overriding concern of maintaining our national security.

By way of background, WEMA is a trade association of over 750 companies, located primarily in the Western United States. WEMA member companies share a common interest in that they are all engaged in sophisticated electronics and information technology. A preponderance of WEMA member companies are small-to-medium in size, designing and manufacturing sophisticated components and equipment for a number of end markets. Some of the types of products WEMA member companies manufacture are: semiconductor devices, such as transistors, diodes, and integrated circuits; test equipment such as oscilloscopes, signal generators, counters and voltmeters; computers and computer peripheral equipment; calculators, telecommunications equipment, such as radio transmitters and receivers; and finally, components such as tubes, resistors, capacitors and similar items.

The sale of high-technology products abroad, such as those manufactured by WEMA member companies, has been one of the prime areas in which the U.S. had continued to hold its own in the world marketplace. According to U.S. Department of Commerce statistics, the favorable balance of technology intensive exports over imports ranged from $7.5 billion to over $10 billion between 1957 and 1973. In 1974, the last year for which Department of Commerce statistics are available, the favorable balance of trade in these product areas was $10.7 billion.

Despite strong competition abroad, most WEMA companies have been

successful in maintaining a technological lead over their foreign competitors and have performed well in the international marketplace. In a recent survey, 189 responding WEMA companies--whose sales volume amounted to slightly over $4 billion in 1973 or approximately 54% of the total sales of our entire membership--indicated that 27% of their 1973 sales came from the export of U.S. manufactured products. This is a substantial increase over several years ago when a majority of the respondents to a similar survey indicated that their international sales represented between 5% and 15% of their total volume. Many WEMA companies attribute well over 50% of their sales volume to orders from outside the United States.

Although at present only a low percentage of this international volume can be attributed to trade with Communist countries, these markets are of increasing importance to U.S. high-technology firms. Some figures may be helpful. In 1970, only $350 million, less than 1% of the $43 billion in U.S. exports, went to the U.S.S.R. and Eastern Europe. By 1975 this amount had grown nearly 8 times to $2.75 billion. Although agricultural exports accounted for about two-thirds of this figure, industrial commodities have assumed considerable prominence rising seven-fold in the past ten years to nearly $1 billion in 1975. Technology intensive products represent about half of this $1 billion figure, the market for such U.S. products in the Soviet Union and Eastern Europe having quadrupled from 1972 to $430 million in 1974.

Export Administration Act

The provisions of the Export Administration Act pose particular problems to every U.S. firm selling high-technology products to the Communist countries. The Act is a living document and, as such, fully reflects the ambivalence with which the United States, and all capitalist countries for that matter, view the Communist countries and their ideologies. As the mood of the United States has changed from time to time, these changes in attitude have been reflected in various amendments to the Act. For example, there has been a shift from the deep hostility of the early 1950's to a more moderate position at present which recognizes the importance of reaching accommodations short of armed conflict. Improved communications forms an important part of this process and the Congress, in modifying the Act in recent years to permit an increased flow of non-strategic transactions, has recognized that

commercial trade in peaceful goods can do much to stimulate communications.

WEMA hopes that Congress will strengthen the policy of promoting constructive trade with Communist countries in its consideration this year of the extension and modification of the Export Administration Act. To this end, this statement will review those areas of the export control process that are of particular concern to Congress and high-technology companies, and discuss possible legislative solutions to these problems. Some of these suggestions are expressed in S. 3084 as amended by the Senate Committee on Banking, Housing and Urban Affairs, and others originate with WEMA. WEMA urges their adoption as a means of enabling U.S. firms to better compete with their West European and Japanese counterparts in the expanding markets of Eastern Europe and the People's Republic of China.

Technology Transfer

The Senate Committee on Banking, Housing and Urban Affairs and the Defense Science Board Task Force Report have each expressed concern over the looseness of existing controls over the transfer of technology. WEMA shares some of this concern, but believes that the innate good sense of U.S. businessmen to retain their most important, latest technology and the existing technology controls exercised by the Commerce and State Departments are adequate to prevent the transfer of vital technology to our potential enemies.

WEMA supports any recommendations that would lead to the development of a simplified system of evaluation which would speed the processing of license applications for specific products. However, WEMA does have certain concerns with recommendations made by the Senate Committee on Banking, Housing and Urban Affairs and the Report of the Defense Science Board Task Force.

Senate:

Section 105 of S. 3084 requires any person who enters a protocol agreement which may result in the transfer of U.S. technical data

or other information to any nation to which exports are restricted for national security or foreign policy purposes to report such transaction to the Secretary of Commerce within 30 days.

WEMA does not object to the concept of this amendment, but would like to see some clarification of the phrase "to which exports are restricted for national security or foreign policy purposes." This phrase as written could be read to include countries to which exports are controlled other than those covered in this Act. Such ambiguity could be corrected by modifying the language to read "or to any nation named by the President pursuant to the last sentence of Section 4(b)(1) of this Act," as amended by S. 3084.

The Senate also proposed that export controls should be administered in such a way that "U.S. policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status, but shall take into account such factors as the country's present and potential relationship to the U.S., its present and potential relationship to countries friendly or hostile to the U.S., its ability and willingness to control retransfers of U.S. exports in accordance with U.S. policy, and such other factors as the President may deem appropriate." Although the author of this amendment reportedly intended this rewording to promote flexibility in the application of controls and a loosening of controls over certain Communist countries, it is equally as susceptible to being interpreted administratively as authorizing the institution of controls over presently uncontrolled countries and further rigidifying the export control system. The Senate Report on page 9 states that "the bill is intended to diminish the tendency for rigid cold war perceptions of national security to dominate the export control process." On page 8, the report states that the present wording of the Act forecloses new market opportunities in Eastern Europe and Asia despite the changing character of relations and ignores the possibility, however remote, of potential threats to the nation's security from entirely different parts of the world. If the intent is as stated, this amendment should be rewritten to clearly reflect this point of view and would then be wholeheartedly supported by WEMA. But, as written, the inherent ambiguity precludes such endorsement.

Defense Science Board Task Force Report:

WEMA agrees with the finding of the Defense Science Board that active transfers of design and/or manufacturing knowhow, especially those of a revolutionary nature, are most critical and should be subjected to the greatest licensing scrutiny, with correspondingly less effort and more rapid processing on less critical cases.

Examples of these less critical cases would be product exports accompanied by minimal amounts of operating and/or maintenance instructions and containing either miniscule amounts of strategic technology or containing strategic technology so embodied as to be virtually non-extractable.

WEMA member firms also welcome the suggestion of the Task Force to reduce dependence on end-use information, particularly so far as the licensing analysis of specific products is concerned. On the other hand, they are troubled by the additional suggestion that reliance on commercial specifications also be reduced in favor of something called the "intrinsic utility" of the product. If this means a streamlining and simplification of the license process, a sharper review and elimination of obsolete COCOM controls, and reduced concern about products containing non-extractable embodied technology, WEMA is certainly in favor of the suggestion. If, however, it means more restrictive licensing practices and little or no attention to retiring obsolete/obsolescent COCOM controls, WEMA would be opposed to the suggestion.

WEMA is also troubled by the Task Force recommendation that "the U.S. should release to non-allied, non-Communist countries only the technology we would be willing to transfer to Communist countries directly." WEMA believes this recommendation would have far reaching adverse effects if it were carried out. High-technology U.S. firms would be virtually unable to support licensing or manufacturing activities in most of the Western nations. It would also be impossible to provide advanced technology to these countries to say nothing of turn-key facilities, advanced equipment, particularly that requiring extensive operating and maintenance instructions,

etc. In addition to economic dislocations, the ensuing diplomatic furor and resulting political repercussions caused by such a radical shift in U.S. policy would be intense.

WEMA does share some of the concern that prompted the Task Force to make such a recommendation--that the reexport regulations of most non-COCOM Western countries are either nonexistent or so limited that an unscrupulous and determined person or organization could freely reexport important U.S. technology. WEMA believes, however, that the vast majority of these transfers are to responsible firms and individuals who use the technology in their own countries and have not the slightest intention or inclination of diversion. These firms and individuals have signed end-use statements agreeing to prevent diversion, and most make strong positive efforts to guard against such possibilities. WEMA believes that the U.S. is justified in continuing to trust these individuals and firms and that technology transfers should be continued with, perhaps, increased U.S. scrutiny abroad as the GAO Report has recommended. In any event, the draconian restrictive measure suggested by the Defense Science Board Task Force should be avoided.

A more general concern that WEMA members express about the Report is that it was commissioned by only one of the many involved Executive departments--the Department of Defense. WEMA feels that such a report would gain in credibility were it to be commissioned by all relevant departments and conducted at least in conjunction with the Technical Advisory Committees. Such a study would be truly representative of all concerned.

Technical Advisory Committees

The major function of the joint business/government Technical Advisory Committees is to review and make recommendations on the U.S. unilateral and COCOM controls in terms of current U.S. technology and U.S. strategic needs. These committees were authorized for this purpose by Congress in the Export Administration Act amendments of 1972 and their role was subsequently strengthened by

the 1974 amendments in which governmental participation was made mandatory. These Technical Advisory Committees provide a useful and important function in exposing businessmen to the basic security problems of the U.S. and offering the government unique access to "state of the art" technical and commercial expertise which can be provided only by industry itself.

However, the Technical Advisory Committees have not been used efficiently. This is both a waste of an effective resource and a source of great frustration to industry participants. Specifically, WEMA feels that recommendations of the Committees must be taken more seriously. WEMA understands that on several occasions Committee recommendations apparently agreed to by all participants including those from government have either been ignored or rejected without further consultation or notification of the Committee.

For example, the Technical Advisory Committee on Computers worked with the National Bureau of Standards for over a year to improve the technical criteria required to more effectively measure computer performance. It appears that the new standards were rejected and, despite all this work, the same old, obsolete criteria will continue to be used. It is unfortunate that this has happened, but more disturbing is the fact that this Technical Advisory Committee has not received any reasons why its recommendations were unacceptable. In situations like these questions about the meaningfulness of the role of the Technical Advisory Committees are bound to occur.

Furthermore, WEMA feels that the terms of the industry members are too short. As it stands, industry participants on the Technical Advisory Committees are limited to a two-year term, whereas government members may serve indefinitely. The present limitation causes disruption and allows very little time for an individual to become familiar with the other members or work of the Committee before they are required to step down.

WEMA is pleased with an amendment proposed by the Senate Committee

on Banking, Housing and Urban Affairs in S. 3084. This amendment extends the terms of industry participants from two to four years and requires that the Committees be informed of the reasons for any failure to accept any advice or recommendations which they may propose. Such amendment greatly strengthens the Technical Advisory Committees and the export control process as a result. WEMA urges this Committee to adopt similar language.

Licensing Delays

One of the most serious problems facing the high-technology industry today is that of excessive licensing delays. In this industry, it can be approximated that the average amount of time required to reach a licensing decision at year-end 1975, was nearly twice that of the 80-day average prevalent in mid-1971. These delays lead to discouragement within a company's sales force, customer unhappiness, late delivery penalties, cancellation of orders, and most importantly they put the U.S. at a competitive disadvantage with their trade rivals, Europe and Japan, who are able to obtain licensing decisions more quickly.

The Congress, in an effort to stimulate speedier action, in the amendments of 1974 required that processing of license applications be acted on within 90 days of submission or that the applicant be informed of the circumstance causing the delay and be given an estimate of when a decision should be reached. This 90-day goal unfortunately has not been achieved, and the information provided in the 90-day notices has not been very helpful.

It is true that since early January, 1976 a concerted effort to reduce licensing delays has been underway in the Commerce Department. However, this crash program is sure to be undermined by the recent substantial budgetary cut approved by the House Appropriations Subcommittee on State, Justice, Commerce, and Judiciary. This cut, if implemented, will of necessity result in a paring down of personnel which in turn will create a new bottleneck for license applications. The reduction in the current budget level aside, it is not clear that the Commerce Department

would be able to sustain its present extraordinary effort. The Department clearly needs the supplemental funds it requested to enable it to hire additional personnel.

The Senate did not address the problem of licensing delays in their proferred amendments although they did recognize and discuss the problem at some length in the Senate Report. The report pointed out that by the Commerce Department's own admission, 77% of the Communist country applications required up to 90 days for processing. It concluded by stating that "the Committee expects and urges the Administration to make continuous efforts to improve export administration and to examine and, as necessary, revise its practices to insure maximum efficiency and dispatch in the implementation of U.S. export control process."

WEMA feels that Congress must go further than merely encouraging the Commerce Department to meet the 90-day objective in Committee Reports. Strong policy direction is needed at the highest level of government in both the Executive and Legislative branches. Without this, little, if any, streamlining of the process will be possible. More concretely, WEMA proposes that the Congress should be kept informed as to the progress being made in reducing licensing delays to the 90-day objective. Section 10 of the Export Administration Act could be amended by the addition of a new paragraph(c) as follows:

> "(c) The semiannual report required for the second half of 1976 and every second report thereafter shall include a summary of those actions which have been taken or which are contemplated to meet or exceed the objective of approving or disapproving export license applications within 90 days of submission, as specified by Section 4(g)."

Such a provision would enable Congress to keep abreast of Commerce's progress in this regard on a continuing basis rather than forcing them to rely on conflicting reports presented every few years at the hearings on the extension of the Export Administration Act,

would provide a written record for these hearings, and would serve as an incentive for Commerce to achieve, sustain, and better the 90-day objective.

The Senate did propose an amendment that would require an applicant to be informed in writing of the specific statutory basis for the denial of any export license application. WEMA is in full support of this amendment and would urge this Committee to adopt a similar amendment that would go a little further. Specifically, WEMA would like the written statement to include the substantive or technical reasons for a denial as well as the statutory basis relied upon. This would give the company a real explanation for the denial and would help the company anticipate the outcome of similar license applications in the future.

Licensing of Display/Demonstration Equipment

Americans also find themselves at a disadvantage with their competitive free-world rivals in the area of displaying and demonstrating their products at exhibitions, private showings, and technical symposiums because the licensing of goods for such products is subject to delays and other restrictive practices.

As pointed out by Secretary of Commerce Dent in a report dated May 29, 1973, the U.S. generally will not approve a license for temporary export of a COCOM list commodity for exhibition in a Communist country if there is a strong likelihood a license for subsequent sale would not be approved. However, as Secretary Dent went on to note, Japan, France, Italy, and Great Britain follow a more liberal policy of freely licensing such temporary products. This disparity in policy results in the inclusion within the displays of U.S. free-world competitors of more sophisticated products than are allowed in comparable U.S. displays, thereby creating a better competitive image for our rivals and enhancing the sale of their other products.

WEMA maintains that this restrictive policy is unnecessary. A Communist country is not going to refuse to reexport temporarily

imported products, little technology embodied in such products is extractable, and besides a Communist technician can easily attend exhibitions in the Western world in which these products are freely displayed.

The Senate did not address this problem in their offered amendments, but WEMA urges this Committee to put the U.S. on an equal footing with its competition in this regard. More liberal and rapid procedures to approve temporary exportations for display purposes should be instituted. Furthermore, WEMA believes that Congress should assume an oversight role in this process by adding the following numbered paragraph to Section 4(b) of the Export Administration Act of 1969:

> "(5) Not later than 9 months after the date of enactment of (the extension of the Export Administration Act) the Secretary of Commerce shall submit to the President and to the Congress a special report of actions taken under paragraphs (2) and (3). Such report shall contain a list of any procedures applicable to export licensing in the United States which may be or are claimed to be more burdensome than similar procedures utilized in nations with which the United States had defense treaty commitments, and the reasons for retaining such procedures in their present form."

Such language is already in the Act as Section 4(b)(4)(B) as a hold over from former years and as such no longer has any effect. This amendment could be actuated merely by revitalizing this provision.

Licensing Classifications

The Export Control Regulations are voluminous and complex, are available only by subscription and are updated 15 to 25 times a year. Large companies have employees who specialize in keeping up with these regulations. Small companies, however, because of their size and reliance on freight forwarders and other intermediate

agencies have neither the need for nor financial justification to employ a specialist in export control regulations. Consequently, they are frequently baffled when it comes time to determine whether or not their products require export licensing.

The Senate addressed this problem in the most general terms by suggesting that the Secretary of Commerce explore ways of simplifying and clarifying lists of articles that are subject to export controls. WEMA cannot offer an ideal solution to this problem, but we can suggest a direction that Congress might encourage the Department of Commerce to take. Specifically, WEMA would suggest that the Department of Commerce review the British approach to the problem.

The United Kingdom Board of Trade issues a condensed listing of controlled products entitled the "Consolidated List of Goods Subject To Security Export Control." The industrial section of this list, as revised and issued on April 30, 1976, is tightly organized and is only 22 pages long. The list can be used along by a small exporter who wishes to determine whether or not his product is controlled, and also can be used by larger companies as an index to the more comprehensive list.

WEMA believes that, if this Committee would write its own amendment directing Commerce to establish such a supplemental list, much of the mystery of the export control process would be dissipated for many small exporters.

Appropriations

In conclusion, it should again be pointed out that whatever changes the Committee may decide to make, Commerce must have the funding to implement them. It is particularly frustrating to industry to see Congress making positive recommendations on the one hand and holding back the money required to implement them on the other.

In May, the House Appropriations Subcommittee on State, Justice, Commerce, and Judiciary refused to approve an additional $568,000 requested by the Commerce Department to enable the Office of

Export Administration to add 22 new positions to help speed license applications. In addition, it recommended that the Commerce Department use an additional $600,000 already appropriated to the Office of Export Administration to keep two trade centers open. The net effect of this $1.2 million cut will be to further slow the licensing process and to put American business at an even greater competitive disadvantage with their COCOM rivals.

WEMA urges the Committee members, as guardians of the course of business under the export control process, to advise their fellow members of the consequence of this proposed cut when it comes to the House floor for a vote. WEMA is sure that the objective of the Subcommittee who proposed the cut and the objective of this Committee are the same--to maximally expedite the licensing process, while at the same time insuring that our national security is protected. With too little resources, it would seem that Congress will be in a position to do neither.

When the House is aware of these facts, WEMA would hope that they would vote both to restore the $600,000 appropriation cut and to allocate the money necessary to continue the operation of the trade centers from some budget other than that of the Bureau of East-West Trade.

APPENDIX 3

STATEMENT OF THE COMPUTER AND BUSINESS EQUIPMENT MANUFACTURERS ASSOCIATION

CBEMA represents the leading manufacturers of computer and business equipment, media and supplies. Last year the combined revenues of CBEMA member companies rose to 32.7 billion dollars, of which 13.8 billion dollars were derived from foreign sales. Our member companies employ a total of 621,000 people in the United States. Typically, our members receive from 30 percent to over 50 percent of their revenues from foreign operations, and they seek not only to maintain their share of current foreign markets vis-a-vis their foreign competitors, but also to gain a foothold in new markets early in their development to ensure the viability of the U.S. computer and business equipment industry. CBEMA and its members were concerned about, and, therefore, participated actively in the review and revision of the Export Control Act in 1969 which led to the passage of the Export Administration Act. We participated also in the 1972 and 1974 extension and amendments of that Act. We have testified this year before the Subcommittee on International Finance of the Senate Committee on Banking, Housing and Urban Affairs, and before your Subcommittee on International Trade and Commerce.

The major problem for U.S. industry in East-West trade is that there is no clear U.S. policy. The U.S. must decide whether it wishes to trade or not trade with the Socialist countries.

The U.S., as a matter of clear policy, needs to protect the commercial and technological lead its high-technology industries have developed over the last three decades. To do this, a clear decision must be made to trade with the Socialist countries, and administrative export control

procedures must expeditiously serve that purpose. If the lack of clear U.S. policy and consequent export control procedures continues to inhibit trade as it has, American companies will continue to expend resources to obtain orders for which the U.S. will not allow licenses, foreign competitors will continue to obtain commercial orders by default, and they will continue to develop critical footholds in Socialist markets which should go to American high-technology firms.

We believe the Congress was right in turning towards export encouragement in the Export Administration Act of 1969. However, the amendments to the Defense Appropriations Authorization Act in 1974 and the subsequent "Export Administration Amendments of 1974" have been interpreted by some as signals to turn the clock back on the policy initiated in 1969.

CLEAR POLICY GUIDANCE IS NEEDED TODAY

The lack of clear statutory guidance, the resultant dispersion of authority and the differing departmental positions toward East-West trade have resulted in a process which is burdensome to the exporter without accomplishing the purpose of encouraging trade and protecting the national security of the United States.

CBEMA supports the policy set forth in the 1974 Act to restrict exports which would make a significant contribution (with stress on the term "significant"), to the military potential of other nations.

The Executive Branch states widely that U.S. trade and export policy concessions go hand-in-hand with security, political and military concessions from communist countries. This is not the basis upon which we can build expanding commercial relations in keeping with the policy pronouncements of the Export Administration Act. The Communist countries are deeply interested in trade with the U.S. in computers and the only realistic criterion that should apply to the denial of export licenses is national security -- that is, those exports which would make a significant contribution to the military potential of other nations. Therefore, CBEMA strong recommends that the basis for denial of individual licenses be limited to short supplies and national security. The present Act limits the term "national interest" to grounds for the denial of all trade with a given country (Section 3(1)(A)). If business is to have a sound base, "national interest" cannot and should not be used as a reason for the denial of specific transactions. We fully support this limitation and the rationale behind it. If such clear policy guidance is enacted, it will not only enable license procedures to be expedited, but also will supply a clear guideline against which licensing decisions can be judged.

When a U.S. export license for any product on the international Coordinating Committee (CoCom) list of embargoed items is granted, it is referred to CoCom for review in light of overall mutual security interests. However, when the U.S. denies an export license for reasons that are not

readily linked to clear national security considerations, it automatically opens the door for our foreign competition to make a comparable sale, since CoCom's embargo responsibility centers on mutual security which equates to our national security. This is another strong reason to limit export controls to national security grounds.

However, even the term "significant" leaves interpretation of this policy intent much too open. There should be some test of the probability of an export making a significant contribution to the military potential of a recipient in the form of more specific wording. Judging from the Department of Defense's testimony earlier this year, success in export control is based on the delay of technology acquisitions, not their prevention. Clearly there is an inclination on the part of certain agencies to delay the acquisition by "controlled countries" of any computer export in spite of the improbability of its making a significant contribution to the military capability of the recipient, and in spite of the fact that the computer might be 5 to 10 years behind the state-of-the-art.

We recommend that the wording in Section 4(h)(1) and 4(h)(2)(A) be amended to insert the words "in all probability" before the words "significantly increase the military capability of the country....".

Such an amendment will give the exporting community reasonable expectation that their license applications are being treated fairly according to the intent of Congress in 1969, 1972 and 1974.

The Deputy Assistant Secretary for International Economic Affairs of the Department of Defense stated in this regard in testimony before the Subcommittee that, "our problem is to judge the extent to which a given export is likely to be put to military use and how significant such use would be." That problem will remain whatever the statute might say. The problem for the exporter is the interpretation of the statute.

This amendment will not change the present practice of judging each proposed export in terms of the likelihood of diversion to a use that would significantly increase the military capability of the country. Such an amendment will provide a more realistice guideline against which the likelihood of diversion can be assessed. This is reasonable and in keeping with the intent of Congress in Section 3 of the Act. We are not speaking of virtual certainty that an export will, or will not, be diverted to significant military use. A greater likelihood of diversion is as easy to determine as a lesser likelihood, although the former guideline will cause less hardship to the exporter while more reasonably and effectively serving the intent of Congress.

NATIONAL INTEREST AND LICENSE DENIALS

In oral and written testimony before the Subcommittee on International Trade and Commerce and earlier in this statement it is noted

that member companies' license applications have been denied on "national interest" grounds. Attached are copies of such denials.

The reasons given for denial are substantially identical in every case (with the exception of the cover letter to the denial dated 1969.) They provide virtually no information to the applicant, and are stock phrases selected to conform to the requirements of the Export Administration Act that the exporter be given reasons for the action taken on his application.

Further, you will note that the reasons for denail given do not relate technically to the system supplied. Most of the activities of the applicant in pursuing his application for license are oriented toward providing technical information and justification about the system and the relevance of its capability to the needs of the end user. Thus, one would expect that the decision to deny would ordinarily be based on a technical deficiency in the match between the system and end user. Yet no data is given to justify the denial, and consequently, the applicant is given no opportunity or basis to refute or appeal the rejection, nor any guidance for improving or facilitating his next license application.

S.3084 contains an amendment requiring that an exporter be given the statutory reasons for a license denail. This amendment will eliminate the use of the term "national interest" in license denial forms. However, it addresses only a symptom of the major problem. The Committee Report on S.3084 states that the Committee assumes the exporter otherwise knows the technical reasons why his export license was denied. This is not the case.

In addition, in our members' experience the relevant government agencies lack the resources to stay abreast of our industry's sustained, rapid technological progress, especially for commercially oriented products. Thus, an application may be incorrectly evaluated on technical matters. These technical evaluations are the guides for those responsible for making the initial licensing decision and for those at higher levels if a decision is escalated.

An exporter should be given statutory and technical reasons for a license denial (on his request). This is in keeping with the Congressional intent to ensure that realistic decisions are made based on a correct evaluation of the technology embodied in a product to be exported. We believe it is also in keeping with the intent of Congress as put forth in Section 9(4) of the Act. Of course, CBEMA realizes that the Department of Commerce, or other agencies involved in the process, as a consequence of such a technical debriefing, should not divulge information inconsistent with the national security or the foreign policy of the United States. But, CBEMA is concerned that an exporter's products be evaluated in a fair, competent and complete manner. In this respect, our concern is similar to that of an exporter who desires to ensure that the documentation accompanying his product for CoCom consideration is accurate.

If an exporter is given a technical debriefing, more efficiency, competence and fairness will be accorded the exporter, very much in keeping with the balance between national security needs and the expansion of legitimate foreign trade as called for by Congress in Section 3(1) of the Act. In addition, formal, written technical reasons will supply the basis for an appeal of the decision. We discuss the appeal issue f rther below.

Some concern has been expressed that by amending the Act, exporters could obtain access to sensitive information. Section 9 of the Act provides currently a mechanism for providing information to exporters within the constraints of "national security, the foreign policy of the United States, the effective administration of this Act and the requirements of confidentiality contained in this act." Therefore, in response to these concerns and in keeping with the structure and intent of the Act dealing with "Information to Exporters," it is recommended that Section 9(4) be amended to read:

> "inform each exporter of the statutory and substantive or technical reasons why an export license was denied."

The two amendments outlined above will go some way to ensure an exporter's product of fair, competent and realistic evaluation in light of the Act. Clarifying policy guidance in regard to a product's probability of significant military contribution, and requiring that a denial be adequately justified, will reduce the probability of U.S. commercial relationships being subjected to arbitrary and questionable technical decisions and political exigencies of the moment. Sound commerical relationships with, and strong American competitiveness in, East-West trade cannot exist under the present system.

CBEMA HAS SPECIFIC CONCERNS REGARDING THE EXPORT ADMINISTRATION PROCESS.

Obtaining a license decision for our members' products frequently involves a processing time of anywhere from six months to 24 months in one case of recent record. There are several reasons for this. Today

there are insufficient numbers of technically-qualified people, in the right places, to adequately weigh the technical characteristics of products to be exported. Although the Office of Export Administration has requested an increase in personnel and its management is addressing its administrative difficulties, these efforts alone will not solve the problem. (We note this request has been deleted by the House Appropriations Committee.) To date, although a sizeable amount of the delay can be attributed to the bottleneck in that office, another bottleneck exists at the next level -- the Interagency Operating Committee. This committee meets only once a week to advise the Commerce Department on individual licensing matters. Its members, who participate in this function in addition to other duties, are not technically qualified and must continually seek instructions from their agencies.

The Export Administration Act must be amended to provide an effective substitute for the present system. We recommend: Requiring that those agencies most concerned with the national security aspects of export administration provide permanent liaison offices to the Department of Commerce. These offices must be manned five days a week with adequately qualified personnel to technically evaluate export license applications from the viewpoint of their individual agency's national security interests. Other agencies should be consulted separately by the Department of Commerce, as appropriate.

The Operating Committee operates on the basis of unanimity which effectively allows any member to veto any license application. The Operating Committee is a decision-making body, contrary to what administration spokesmen have testified. It is a time consuming, negative filter process weighted on the side of denial through the unanimity practice. Theoretically,

the Operating Committee reports to the Advisory Committee on Export Policy (ACEP) composed of the Assistant Secretaries of the concerned agencies. In our opinion, Operating Committee members often endorse a single member's dissent in order to avoid involvement in further considerations of controversial cases at higher levels within their own agencies. This is borne out by the notation in the recent General Accounting Office report, "The Government's Role in East-West Trade: Problems and Issues," where it is stated that the Advisory Committee on Export Policy almost never meets, its working being carried out by the Operating Committee. Thus, industry rarely appeals to the ACEP since the staff analysis for the ACEP members will be performed by the same personnel as made the initial decision. We also recommend in this regard that a smaller version of the present Operating Committee, permanently manned on a full-time basis from such agencies as the Department of State, the Department of Defense, and the Energy Research and Development Administration be established, without veto power, to "advise and consult" (as required in the present Act) with the Department of Commerce -- again, on matters pertaining to national security. Other agencies could be consulted, as appropriate, on an ad hoc basis.

After receiving advice from concerned agencies, the final decision must be made by the Department of Commerce. The current rule of unanimity must be replaced, the present system does not allow policy decisions to be made by the appropriate department and at the appropriate policy level.

EXCEPTIONS CASES

Large initial investments by our member companies have been made in the Socialist markets under the presumption that the volume and quality of such trade would increase. To a great extent, many of our products will be exceptions cases due to the CoCom guidelines. These are not normal license applications, and they should not be treated as such.

Because of their nature, these cases require policy decisions that cannot be made at the Operating Committee level based on technical evaluation alone. If these exceptions cases are treated in the normal manner, lengthy delays and almost certain denials on technial evaluations at the Operating Committee level result when what is needed is a prompt decision on whether, for policy purposes, the product is licenseable. Thus, we recommend that exceptions cases go immediately to the Advisory Committee on Export Policy where this determination can be made, bypassing the Operating Committee and, thus, avoiding unnecessary delays. The system at present forces decisions at a low technical level when the problem is not commercial specifications but policy. Immediate submission to ACEP will speed up the licensing process on these exceptions cases, will oblige the decision to be made by the right people, and will enable the applicant to direct his assistance to the real problem and to save time and money on following up on his application.

The exporter in these exceptions cases should also have the right to consult with the ACEP on any issues the license may present, and, in the case of a denial at this level, to be advised of the reasons for a denial.

APPEAL OF LICENSING DECISIONS

CBEMA has in earlier testimony made comments about the appeals process for a license denial. We have reviewed further our member's views of the appeals process. It is our understanding that a full-time attorney has been assigned to process appeals within the Bureau of East-West Trade. We believe, however, that the Department of Commerce misunderstands what is required by business in the appeals process. Whether the license was correctly processed and those required to make decisions on the application did consider and make the decisions should only be part of the review. We believe that the appeals process should constitute a de novo review of the license application. Denial of an export license application represents a judgment on the part of various government officials about the proposed export. Thus, what is needed is a reevaluation of the data presented both by the applicant and the relevant government agencies, but at a higher level within the concerned agencies. Thus, we recommend that the appeals process be made a complete substantive and procedural reconsideration of the application.

THE TECHNICAL ADVISORY COMMITTEE PROCESS NEEDS IMPROVEMENT

The Act provides for the establishment of Technical Advisory Committees manned by members from government and industry, appointed by the Secretary of Commerce for specific industry sectors when he might have difficulty in evaluating export controls.

Under these provisions our industry has devoted significant time and money to provide a basis for a realistic export policy for computer systems in a cooperative effort with technically qualified government representatives. This is an area which our members feel is very important, as the Technical Advisory Committees should be the basis for critical dialogue between industry and government.

CBEMA is encouraged by the Amendments adopted in S.3084 which strengthen and increase the role of the Technical Advisory Committees in the export control process. We fully support those amendments.

One amendment would extend the term of non-government Technical Advisory Committee members to four years from the present two. This is essential for continuity and effectiveness of the Technical Advisory Committee members.

Another amendment would require the government to inform, in writing, the Technical Advisory Committees of the reasons for any failure to accept any advice or recommendations which they may make or render to the government regarding export controls within their areas of responsibility. This is also necessary to remedy the "one-way street" version of dialogue between government and industry. These highly qualified Technical Advisory Committee reports have apparently not had any affect on U.S. policy. These reports disappear into the labyrinth of government with no feedback. This amendment may not bring about a change in the Department of Defense's habit of not endorsing Technical

Advisory Committee recommendations, but it may bring about a less arbitrary and one-way interface with private industry. The need to justify the decisions on Technical Advisory Committee recommendations may help to bring about a more realistic export policy.

Furthermore, it should be made clear that the TAC's role is to provide advice on export control policy affecting their product sectors. CBEMA, and individual CBEMA members, who recommended the establishment of Technical Advisory Committees envisaged that these committees would ensure industry representation, not in the decision-making processes of government, but in the policy formulation phase that leads to the ultimate decision. CBEMA favors such an amendment to H.R.7665.

A matter of serious concern to the U.S. industry is the secretive manner in which negotiations in CoCom are conducted by our government. U.S. industry would welcome the opportunity to participate in policy formulation as it applies to CoCom. This should involve a continuing dialogue and two-way exchange of information between industry and government. We have observed that, in the computer field at least, the U.S. CoCom delegate in Paris is given technological support by a representative of a non-profit organization under contract to the Department of Defense. In the same CoCom negotiations, however, other delegations rely on representatives of their own computer industries for technical support.

We understand that this cooperation between foreign governments and their industries also exists in other industry sectors. The U.S. should give itself the same technical information and practical advantage that accompanies such private sector representation.

The U.S. agencies assigned economic policy must be represented at the CoCom negotiations. This is in recognition of the fact that the negotiations are based on balancing mutual commercial and security interests. Only the U.S. negotiating team is oriented so heavily toward only the security of this balance: The Department of Commerce should join the Department of State and the representative under contract to the Department of Defense.

A third provision of S.3084 which CBEMA fully supports would add multilateral controls to areas in which the Technical Advisory Committees are to be consulted. This also is necessary, considering the multilateral basis of U.S. export controls.

However, in this regard the Senate bill does not go far enough in its advocacy of the private sector's input into export controls. The Technical Advisory Committees should be represented and supply input at the CoCom negotiations themselves.

One other main deficiency exists in the operation of the Technical Advisory Committees. Industry members participate as individuals, not as representatives of industry; and although most of the input to committee

deliberations come from industry, individual members cannot report to their parent companies anything that transpires in committee executive sessions, although government members of the committees communicate freely with their parent agencies. The Technical Advisory Committees' operations at present are clearly one-way dialogues, and not as Congress intended them to be.

This system leads to inefficiencies and deficiencies in the function of these committees. Industry members are chosen for thier knowledge of a certain product group; however, no member can be a specialist in all matters being discussed in the TAC forum. In order to provide timely, accurate and qualified advice on a wide variety of products and export controls, a member must have access to the information and advice that can only be provided by specialist in his company, in other TAC's, or elsewhere in the industry. Government representatives are free to draw on such technical support. Further, subject areas of different TAC's often overlap. Duplication of effort is one result. Logic would dictate that TAC's be allowed to communicate with one another for the sake of clear, more consistent, more constructive, and, thus, more useful advice on export controls. Clearly the TAC's would perform their function much more competently if both industry and Government members are allowed technical support for this very critical role in the export control process.

There need be no problem with the security classification requirement for information. Inter-industry communication can be limited to that between TAC members and others who have security clearance for such information, as is regularly done with defense contracts. Congress can give a directive to provide for an efficient, expert and balanced advisory role for the Technical Advisory Committees.

In summary, CBEMA endorses the Senate Banking Committee's amendments to 1) Extend industry Technical Advisory Committee membership to 4 years; 2) Extend the scope for Technical Advisory Committee consultation; 3) Require feedback to Technical Advisory Committees on their recommendations. We also urge the Committee to: 1) Provide for Technical Advisory Committee support and Department of Commerce's representation at the CoCom negotiations and 2) Permit inter-industry communications on Technical Advisory Committee deliberations.

REVISION OF CONTROL LISTS

The Senate bill, S.3084, requires that the Department of Commerce, in cooperation with the appropriate Technical Advisory Committees review existing U.S. unilateral and multilateral controls to determine whether such controls should be removed, modified, or added in order to protect the national security of the U.S. In S.3084 the results of such review are to be reported to Congress within 18 months, which is one-half of the extension period provided for in the current bills. The time required should be 9 months, at maximum.

Our industry is characterized by very rapid, sustained technological changes. The speed and manner with which control lists are presently reviewed is most deficient. The last review of our industry sector began in 1972; the results of this last review, which was completed in 1975, only recently have been released to U.S. industry. The review previous to this one was completed in 1969, 7 years ago. Thus, the control lists, when finally negotiated to approval, generally reflect technological levels several years old. A new review of present lists must begin immediately

and must be reported to Congress as soon as possible. The Technical Advisory Committees will be quite willing to participate in this activity despite their member's respective primary responsibilities toward their parent companies. The relevant government agencies to be involved in this review should be ready to respond in the same manner.

COMMENTS ON THE BUCY REPORT AND CBEMA'S RECOMMENDATIONS

While the conclusions and recommendations of the GAO study, as well as the expressed intentions of various Administration officials, are to seek to improve the operation of our present product-oriented, case-by-case system, the Defense Science Board study team took a fresh look at our established national need to control the transfer of advanced technology and evaluated that need in the light of today's world. This prestigious body did come up with some very thoughtful findings.

We support the report's conclusion that "a new approach to controlling technology exports is overdue." And, we would agree with the report's essence, that any basis for new export controls should be based on the control of key design and manufacturing knowhow, and that product controls should be limited to critical items of direct and significant military significance. If less critical cases are processed quickly, as they should be, more time and resources will be freed to allow for a more thorough yet more rapid examination of "key" technology exports.

However, a major problem of critical dimensions is implementation of such a new export control policy. This problem was beyond the scope of the

Defense Science Board. For example, the Report suggests commercial specifications e reduced in favor of something called "intrinsic utility" of the product. If this means a streamlining and simplification of the license process, a sharper review and elimination of obsolete CoCom controls, and reduced concern about products containing non-extractable embodied technology, our group would be in favor. However, who would determine "intrinsic utility" or "key technologies?" On what basis? In what context? And would the U.S. be able to get its CoCom partners to agree to such a system?

We are also disturbed about the Report's suggestion that the U.S. should release to non-allied, non-Communist countries only the technology we would be willing to transfer to Communist countries directly. Clearly, the economic dislocations in U.S. high-technology firms would be tremendous; they would be virtually unable to support licensing or manufacturing activities in most of the non-CoCom Western nations. It would also be impossible to provide advanced technology to those countries. In addition to economic dislocations, the ensuing diplomatic furor and resulting political repercussions caused by such a radical shift in U.S. policy would be intense. This restrictive measure should be avoided.

Despite our approval of the essence of the report, it cannot be considered a blueprint for such a new control system. The Commerce Department has the primary responsibility for controlling the export of non-Munitions List products and technologies with the State Department and Department of Defense assigned consultative responsibilities. The

Bucy Report represents an effort sponsored by and for the Department of Defense and should be considered in that context. The TAC's which have been heavily involved in these issues were not participants in the report. The findings would affect computers, a key high-technology export, although there was no Subcommittee covering this industry. The importance of economic and political issues must be a part of the decision equation. Any new export control policy must be balanced and complete. Such a report would gain credibility if it were commissioned by all relevant departments and conducted at least in conjunction with the TAC's.

MORE BALANCED STUDY IS NEEDED

Clearly, more comprehensive and balanced study of the Bucy Report and of the feasibility of its implementation is needed.

CBEMA endorses the GAO recommendation in this regard with one major addition. This recommendation is as follows:

"That the Secretary of the Treasury as Chairman of the East-West Foreign Trade Board:

1. Direct the Council on International Economic Policy to initiate a comprehensive study of technology transfers and their impacts on national security and domestic economy.
2. Determine the organizational requirements and objectives in monitoring international transfers of technology to and from the United States, characteristics of these

transfers which should be monitored, and methods which could be used in concert with the CIEP study.

3. Designate the agencies to be responsible for these objectives through implementing all or part of the monitoring program.

4. Designate scientific and technological transfers as a key intelligence question for Central Intelligence Agency reporting."

The major addition would be that private industry should participate to provide a comprehensive and balanced study of the issues.

TRANSFER OF TECHNOLOGY

One Senate amendment requires any person who enters a protocol agreement which may result in the transfer of U.S. technical data or other information to any nation to which exports are restricted for national security or foreign policy purposes to report such transaction to the Secretary of Commerce within 30 days.

CBEMA does not object to the concept of this amendment, but would like to see some clarification of the phrase "to which exports are restricted for national security or foreign policy purposes." This phrase

as written could be read to include countries to whcih exports are controlled other than those covered in this Act. Such ambiguity could be corrected by substituting language to read "to any nation named by the President pursuant to the last sentence of Section 4(b)(1) of this Act." This "last sentence" referred to is that added to Section 4(b)(1) of the Act by Section 103(a) of S.3084. In this regard, we also support Section 103(b) of S.3084 which strikes the references to "controlled countries."

REEVALUATION OF EXPORT CONTROL POLICY

The Senate also proposed that export controls should be administered in such a way that "U.S. policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status, but shall take into account such factors as the country's present and potential relationship to the U.S., its present and potential relationship to countries friendly or hostile to the U.S., its ability and willingness to control retransfers of U.S. exports in accordance with U.S. policy, and such other factors as the President may deem appropriate." Although this amendment reportedly is intended to promote a loosening of controls over certain Communist countries, it is equally susceptible to be interpreted administratively as authorizing the institution of controls over presently uncontrolled countries. If the intent was as stated, this amendment should be rewritten to clearly reflect this point of view and would then be supported by CBEMA. But, as written, the inherent ambiguity of Section 103(a) of S.3084 precludes our endorsement.

REVIEW OF COCOM DOCUMENTATION

The amendment in S.3084 to require that an exporter be allowed to ensure the correctness of documentation accompanying his product to multilateral negotiations is a necessary one. In our member's experience, such documentation can, and has been, significantly different than that submitted by the exporter. This can make a tremendous difference in the likelihood of an export's approval, a likelihood the exporter should be informed of in this manner.

APPROPRIATIONS

Earlier in this testimony we pointed out that we have found the license processing time to be extremely lengthy. As a solution, we recommended full-time, technically-qualified personnel support for the Interagency Operating Committee. And we supported an increase in the number of qualified technical personnel in the OEA itself. This expansion will afford the exporter faster licensing time and more competent evaluation of his product's license.

It is true that since early January, 1976, a concerted effort to reduce licensing delays has been underway in the Commerce Department. However, this crash program is sure to be undermined by the recent substantial reduction of OEA's budget request approved by the House Appropriations Committee. This reduction, if implemented, will of necessity result in a paring down of personnel which in turn will create a new bottleneck for license applications. The reduction in the current budget level aside, it is not clear that the Commerce Department would be able to sustain its present extraordinary effort.

The Department clearly needs the supplemental funds it requested to enable it to hire additional personnel.

In May, the House Appropriations Subcommittee on State, Justice, Commerce, and Judiciary refused the Commerce Department $618,000 requested by them to enable the Office of Export Administration to add 24 new positions to help speed license applications. In addition, it ordered that DIBA keep two trade centers open. DIBA had planned to transfer the trade center's $639,000 of resources to improve the export licensing process. These budget reductions will slow the licensing process if approved by Congress.

Whatever changes this Committee may decide to make, Commerce must have the funding to implement them. It is particularly disturbing to industry to see Congress making positive recommendations on the one hand and holding back the money required to implement them on the other. CBEMA is sure that the objective of the Appropriations Committee and the objective of this Committee are the same -- to maximally expedite the licensing process, while at the same time insuring that our national security is protected. With too little resources, it would seem that Commerce will be in a position to do neither.

In sum, CBEMA recommends:

1) Clearer policy guidance that will remove the uncertainties and frustrations involved in the export control process;

2) In the case of a license denial, an exporter be given statutory and substantive or technical reasons why a license was denied;

3) Permanent, technically-qualified liaison and support for the interagency consultation process to expedite license processing and improve product assessment;

4) Immediate referral of exceptions cases to ACEP, and the right for an exporter to consult with ACEP on the application and on a license denial.

5) A de novo procedural and substantive review of license denials to at least one administrative level above that making the denial decision;

6) Strengthening and expansion of the role of the Technical Advisory Committees (TAC's) by:

a) Extending the industry membership term to four years.

b) Broadening the scope for TAC consultation to include advice on U.S. and CoCom policy and participation at CoCom negotiations.

c) Requiring that the TAC's be informed in writing of the reasons for any failure to accept any TAC recommendations or advice they may render to the Government regarding export controls.

d) Inter-industry communication for technical support for TAC members.

e) Allow for TAC technical support at the CoCom negotiations.

7) Department of Commerce representation at the CoCom negotiations;

8) Completion of a new review of U.S. and multilateral export controls by the Department of Commerce and Technical Advisory Committees within nine months.

9) A balanced study, including industry, of the Bucy Report.

10) Restriction of protocol agreement report to countries to which exports are controlled for national security purposes.

11) Deletion of Section 103(b) of S.3084 which changes the basis for imposition of national security controls.

12) Granting exporters the right to review the documentation accompanying their case for CoCom review.

13) Provision of adequate funds to the Office of Export Administration.

If adopted, these recommended amendments will improve the Export Administration Act of 1969 as amended. They will help to lessen the grave difficulties and problems Government and industry face in East-West trade under the present export control system.

CBEMA will be pleased to provide your Committee with any further background information or assistance you might require.

Exhibit I

U. S. DEPARTMENT OF COMMERCE
Bureau of International Commerce
Office of Export Control

NOTIFICATION OF REJECTION

Name of Applicant
Address (Street, City, Zone, State)

Application No(s).

The items circled below explain the reason(s) for REJECTION of the export license application(s) listed above.

1. The approval of the application(s) is contrary to the national interest.
2. Price(s) shown on the application(s) is (are) considered excessive.
3. The (applicant's) (intermediate consignee's) (ultimate consignee's) (purchaser's) export privileges have been (denied) (suspended).
4. No quota for the commodity specified has been established for _____ (Country)
5. Refer to attached notice(s).
6. After careful initial review of your appeal which did not request Appeals Board consideration, it has been determined that approval would not be in the national interest. You may appeal this determination made on initial review, expressly requesting in writing a consideration by the Appeals Board, in accordance with the Appeals Procedure established in Section 389.1 of the Comprehensive Export Schedule. Your appeal must be prepared in accordance with the requirements of Section 883.1 (f), and must clearly state: (1) the grounds for the appeal, and (2) the relief requested. Such an appeal should be addressed to the Product Division, indicated on this notice, and it will be transmitted to the Appeals Board. The decision of this Board will be final.
7. Other reason(s)/Remarks:

Date of application(s) 1967
Applicant's Reference No(s).
Commodity (ies) optical reader
optical reador controll
Schedule B No(s). 71430
Consignee Stahlinstitut der VVB Stahl und
Destination Walzworko
East Germany

REJECTED

NOTE: This action MAY BE APPEALED if it imposes conditions of exceptional hardship or discrimination upon the applicant. The appeal procedure is outlined in the current Comprehensive Export Schedule (Part 389) which may be purchased from any Department of Commerce field office, or from the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

Date 0.2 4, 67

Authenticated

Refer inquiries to: Scientific & Electronic Equipment Division
OFFICE OF EXPORT CONTROL
WASHINGTON, D.C. 20230

U.S. DEPARTMENT OF COMMERCE
BUREAU OF INTERNATIONAL COMMERCE
WASHINGTON, D.C. 20230
Office of Export Control

1969

Gentlemen:

Your applications Nos. covering a Model computing system with associated data processing equipment, magnetic tape, and test equipment, valued at $ for the Deutsche Reichsbahn, East Germany, have been denied, because the transaction was determined, after extensive interagency review, not to be in the national interest. Notification of Rejection forms IT 204A are enclosed.

Officials of the Office of Export Control discussed these applications with representatives of your firm on many occasions in the hope that a configuration for the computer system could be found that would satisfy your customer and, at the same time, not represent an unreasonable security risk to the United States. In particular, a meeting was held with representatives, including three from their European sales staff on at which time a representative of this Office explained in detail the most recent guidelines under which computers are approved for Eastern Europe. At that time, the East German Railway case was specifically discussed, and it was pointed out that it exceeded our guidelines in a number of respects.

We are aware that has made continuing efforts to accommodate the strategic concerns which were brought to their attention. Indeed, the present applications for the Model system represent a substitution for the Mode for which applications were originally submitted. As late as submitted a new configuration in which an attempt was made to lessen the licensing problem by reducing the number of disc drives. Unfortunately, this reduction was

accompanied by a marked increase in the number of remote terminals (' which are also of concern. This new con iguration was reviewed by the Commerce Department and the other gencies that advise us on U.S. export controls. It was determined tha a computer of the power of the Model and with the memory capac ty of the proposed installation, equipped, as in this case, with a la ge number of remote terminals, is the equivalent of the command/contr l computer systems used by our Department of Defense for strategic ilitary purposes. It was agreed that supplying a system such as this to East Germany would represent a significant security risk and that the applications should be denied.

I regret the long delay in reaching this decision, but we felt it was necessary in such an important case to explore thoroughly whether there might be a basis for approval.

Sincerely,

John R. Collins
Director
Scientific and Electronic
Equipment Division

Enclosures

FORM ET-381-A
(Rev. [illegible])

U. S. DEPARTMENT OF COMMERCE
[illegible]
Bureau of International Commerce
Office of Export Control

NOTIFICATION OF REJECTION

Name of Applicant
Address (Street, City, Zone, State)

Application No(s).

The items circled below explain the reason(s) for REJECTION of the export license application(s) listed above.

1. The approval of the application(s) is contrary to the national interest.
2. Price(s) shown on the application(s) is (are) considered excessive.
3. The (applicant's) (intermediate consignee's) (ultimate consignee's) (purchaser's) export privileges have been (denied) (suspended).
4. No quota for the commodity specified has been established for _____ (Country)
5. Refer to attached notice(s).
6. After careful initial review of your appeal which did not request Appeals Board consideration, it has been determined that approval would not be in the national interest. You may appeal this determination made on initial review, expressly requesting in writing a consideration by the Appeals Board, in accordance with the Appeals Procedure established in Section 383.1 of the Comprehensive Export Schedule. Your appeal must be prepared in accordance with the requirements of Section 383.1 (f), and must clearly state: (1) the grounds for the appeal, and (2) the relief requested. Such an appeal should be addressed to the Product Division, indicated on this notice, and it will be transmitted to the Appeals Board. The decision of this Board will be final.
7. Other reason(s)/Remarks:

Date of application(s)
1968
Applicant's Reference No(s).
Commodity (ies) Electronic computers, digital computer for electronic data processing machines; recording magnetic tape for electronic computers
Schedule B No(s).
7420, 7492, 7420
Consignee
Deutsche Reichsbahn
Destination
East Germany

The computer system proposed is considered militarily significant as it exceeds established guidelines. (See attached letter)

REJECTED
THE RIGHT TO APPEAL MUST BE EXERCISED WITHIN 45 DAYS FROM
DEPT. OF COMMERCE

NOTE: This action MAY BE APPEALED if it imposes conditions of exceptional hardship or discrimination upon the applicant. The appeal procedure is outlined in the current Comprehensive Export Schedule (Part 38[illegible] which may be purchased from any Department of Commerce field office, or from the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

Date 8/1
Authenticated
Refer inquiries to: Scientific & Electronic Equipment Division
(Field Division)
[illegible]
WASHINGTON 25, D. C. 20230

AIA

Exhibit II

FORM DIB 687
(Rev. 2-75)
Effective 10-2000

U.S. DEPARTMENT OF COMMERCE
[illegible]
OFFICE OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

Refer Inquiries to (Telephone and Room No.)

BEPP/OEA/S&EL

NOTIFICATION OF REJECTION OF EXPORT LICENSE APPLICATION

1. Name of Applicant Address (Street, City, State, Zip code)

2. Consignee(s) (Purchaser)
V/O
Elektronorgtechnika, USSR

3. Destination(s)
USSR

4. Export Control Commodity No(s)
714 (9) 621; 714 (3) 621

5. Application No(s). and Date(s)

6. Applicant's Ref. No(s).

7. Date of Action

8. Your export license application (-) (was) (were) rejected for the following reason(s)

☒ Approval is contrary to the national interest

☐ Export privileges have been ☐ denied ☐ suspended for

☐ Applicant ☐ Intermediate Consignee ☐ Ultimate Consignee ☐ Purchaser

(See Supplement No. 1 to Part 388 of the Export Administration Regulations)

☒ Refer to attached notice(s)

☐ Other

REJECTED
THE RIGHT TO APPEAL [illegible]
WE EXERCISED WITHIN 45 DAYS FROM

DEPT. OF COMMERCE

9. Authenticated By
[illegible]

10. Date of Authentication
/ /
1975 TC

NOTE: An appeal of this rejection must be received by the Department of Commerce no later than [illegible] days from the date stamped in Item 7 above. See Part 388 of the Export Administration Regulations. The rule may be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, from any DIBA District Office, or from Room 1605, U.S. Department of Commerce Building, 14th and "E" Sts., N.W., Washington, DC 20230.

Your application covering a [redacted] computer system with spare parts and supplies, with a total value of [redacted] of which the U.S. content was valued at [redacted], for export to [redacted], Moscow, U.S.S.R., has been denied for reasons of national security pursuant to the Export Administration Act of 1969, as amended and extended.

The subject system, designated by the letter "A" on our Commodity Control List, is a very large and sophisticated computer system with significant military/strategic/intelligence application possibilities. The computer system could not be adequately safeguarded against unauthorized use.

The U.S. and its COCOM allies have determined that exports of such A-rated commodities to Eastern European countries could contribute so significantly to the military/strategic capabilities of these countries as to constitute a potential threat to this country.

After extensive interagency review, including the highest levels of Government, we have been unable to determine that this system would be used solely for the purposes for which approval would be granted. It thus does not justify an exception at this time to the general U.S. and COCOM policy of non-approval applicable to it.

Exhibit III

FORM DIB-[illegible]
(Rev. 7-75)
Formerly IA-[illegible]

U.S. DEPARTMENT OF COMMERCE
DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
BUREAU OF EAST-WEST TRADE
OFFICE OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

Refer Inquiries To (Licensing Division):
BEWT/OEA/S&EE

NOTIFICATION OF REJECTION OF EXPORT LICENSE APPLICATION

1. Name of Applicant Address (Street, City, State, Zip code)

2. Consignee(s) Purchaser(s)

3. Destination(s)

4. Export Control Commodity No(s).
714 (3) 621

5. Application No(s). and Date(s)
1975

6. Applicant's Ref. No(s).

7. Date of Action
75

8. Your export license application(s) was(were) rejected for the following reason(s):

☒ Approval is contrary to the national interest.

☐ Export privileges have been ☐ denied ☐ suspended for

☐ Applicant. ☐ Intermediate Consignee; ☐ Ultimate Consignee; ☐ Purchaser.

(See Supplement No. 1 to Part 388 of the Export Administration Regulations)

REJECTED
THE RIGHT TO APPEAL THIS
IS EXERCISED WITHIN 45 DAYS FROM
DEPT OF COMMERCE

☐ Refer to attached letter(s).

☒ Your application covering a _____ computer and spare parts valued at _____ for export to _____ has been rejected for national security reasons pursuant to the Export Administration Act of 1969 as amended and extended.

Subject equipment designated by the letter "A" on our Commodity Control List has significant strategic applications.

The U.S. and its CoCom allies have determined that exports of such "A" commodities to Eastern European destinations could contribute significantly to the military capabilities as to constitute a potential threat to our national security.

Authorized By

10 Date of Authorization

NOTE: An appeal of this rejection must be received by the Department of Commerce no later than 45 days from date stamped in Item No. 9 hereof. See Part 389 of the Export Administration Regulations. They may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, from any DIBA District Office, or from Room 1605, U.S. Department of Commerce Building, 14th and E Sts., N.W., Washington, D.C. 20230.

559

IBM-RF-[illegible]

After extensive interagency review, we have been unable to determine that this export justifies as an exception at this time to the general U.S. and CoCom non-approval policy applicable to it.

FORM DIB 687
(Rev. 2-75)
Formerly IA-704A

U.S. DEPARTMENT OF COMMERCE
DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
BUREAU OF EAST-WEST TRADE
OFFICE OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

Exhibit IV

BEWT/OEA/S&EE

NOTIFICATION OF REJECTION OF EXPORT LICENSE APPLICATION

1. Name of Applicant Address (Street, City, State Zip code)	2. Consignee(s)/Purchaser(s): V/O Electronorgtechnika
	3. Destination(s): U.S.S.R.
	4. Export Control Commodity No(s).: 714(3), 891(4), 714(8)621
5. Application No(s). and Date(s): 1975	6. Applicant's Ref. No(s).
	7. Date of Action: /76

8. Your export license application(s) (was) (were) rejected for the following reason(s):

[X] Approval is contrary to the national interest.

[ ] Export privileges have been [ ] denied [ ] suspended for:

[ ] Applicant; [ ] Intermediate Consignee; [ ] Ultimate Consignee; [ ] Purchaser.

(See Supplement No. 1 to Part 388 of the Export Administration Regulations)

[ ] Refer to attached notice(s).

[X] Other Your application covering an , computer system valued at for export to the U.S.S.R. has been denied for national security reasons pursuant to the Export Administration Act of 1969 as amended and extended.

Subject system designated by the letter "A" on our Commodity Control List, has significant strategic applications. Its use could aid the consignee in the development and improvement of computers and peripherals that could be put to significant strategic uses.

The US and its COCOM allies have determined that exports of such "A" commodities to Eastern European destinations could contribute

9. Authenticated By: EWR#14	10. Date of Authentication

NOTE: An appeal of this rejection must be received by the Department of Commerce no later than 30 days from date stamped in Item Number 7 above. See Part 389 of the Export Administration Regulations. They may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, from any DIBIA District Office, or from Room 1605, U.S. Department of Commerce Building, 14th and "E" Sts., N.W., Washington, D.C. 20230.

DECLASSIFIED

significantly to the military capabilities as to constitute a potential threat to our national security.

After extensive interagency review, we have been unable to determine that this system justifies as an exception at this time to the general US and COCOM non-approval policy applicable to it.

Exhibit V

FORM DIB 687 (Rev. 2-75) Formerly 1A-704A

U.S. DEPARTMENT OF COMMERCE
DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
BUREAU OF EAST-WEST TRADE
OFFICE OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

Refer Inquiries To (Licensing Division): BEWT/OEA/S&EE

NOTIFICATION OF REJECTION OF EXPORT LICENSE APPLICATION

1. Name of Applicant Address (Street, City, State, Zip code)

2. Consignee(s)/Purchaser(s)

3. Destination(s)

4. Export Control Commodity No(s): 714 (7) 621; 714 (9) 621

5. Application No(s). and Date(s): [redacted], 1975

6. Applicant's Ref. No(s).

7. Date of Action: 1976

8. Your export license application(s) (was) (were) rejected for the following reason(s):

☒ Approval is contrary to the national interest.

☐ Export privileges have been ☐ denied ☐ suspended for

☐ Applicant; ☐ Intermediate Consignee; ☐ Ultimate Consignee; ☐ Purchaser.

REVOKED
THE PRIVILEGE OF PRACTICE BEFORE THE BUREAU OF EAST-WEST TRADE

(See Supplement No. 1 to Part 388 of the Export Administration Regulations)

☐ Refer to attached note(s).

☒ Other: Your applications, covering terminal equipment to allow a new end user to gain access to an installed [redacted] computer system in [redacted] has been denied for reasons of national security pursuant to the Export Administration Act of 1969 as amended and extended.

This equipment, valued at [redacted] in toto, is designated by the letter 'A' on our Commodity Control List because it has significant strategic applications. The United States and its Cocom allies have determined that exports of such A-rated commodities to Eastern European destinations could contribute so significantly to their military and/or strategic capabilities as to constitute a potential threat to our national security.

9. Authenticated By: [signature]

10. Date of Authentication: [illegible]

NOTE: An appeal of this rejection must be received by the Department of Commerce no later than 45 days from date stamped in Item Number 7 above. See Part 389 of the Export Administration Regulations. They may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, from any DIBA District Office, or from Room H-3315, U.S. Department of Commerce Building, 14th and "E" Sts., N.W., Washington, D.C. 20230.

U.S.G.P.O.: [illegible]

After extensive interagency review, we have concluded that the terminal equipment would not be used for the purposes for which we would approve it, and, consequently, we have determined that the equipment does not justify an exception at this time to the general U.S. and CoCom policy of non-approval applicable to it.

APPENDIX 4

LETTER TO CHAIRMAN MORGAN FROM CHARLES W. STEWART, PRESIDENT, MACHINERY AND ALLIED PRODUCTS INSTITUTE

June 23, 1976

The Honorable Thomas E. Morgan
Chairman
Committee on International Relations
House of Representatives
2170 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Morgan:

The Machinery and Allied Products Institute welcomes the opportunity to offer its views concerning the several bills before the Committee dealing with foreign boycotts aimed at countries friendly to the United States. We request that this letter be included in the record of hearings on this subject.

As you may know, MAPI is a national organization of capital goods and allied equipment manufacturers. Our membership has a vast stake in foreign trade, including substantial trade with the growing markets in the Middle East.

In examining the issues posed by the Arab boycott against Israel and the bills before the Congress dealing with the boycott, we have attempted to consider the best interests not only of the important segment of the U.S. business community which we represent, but also the broader interests of the U.S. economy as a whole and the objectives of U.S. foreign policy. We have studied carefully the testimony presented in recent months to congressional committees, including the testimony earlier this month before the Committee on International Relations. We find persuasive and concur in the Executive Branch's position on the complex issues posed by the boycott as expressed in recent comprehensive statements before your Committee by representatives of the Departments of the Treasury, Commerce, and State. We cite below pertinent portions of those statements.

* * *

-- Secretary of the Treasury William Simon, June 9, 1976

> We have strongly opposed [a confrontational attack on the Arab boycott] and intend to continue to do so because we are

convinced that such a course would fail to achieve its stated objectives. The ultimate effect of such an approach is to tell Arab nations that either they must eliminate the Arab boycott entirely, irrespective of a settlement in the Middle East, or cease doing business with American firms. We have seen no evidence that such a policy would result in elimination of the boycott. In fact we believe that the effect of such pressure would harden Arab attitudes and potentially destroy the progress we have already made.

The argument is made that the Arab world when faced with such a choice will recognize the importance of continued access to U.S. goods and services and therefore eliminate what they consider one of their principal weapons in the political struggle against the State of Israel. Unfortunately, this argument fails to reflect several basic facts.

The U.S. alone among industrial countries has a clearly established policy and program of opposition to foreign boycotts of friendly countries, including the boycott of Israel. Other countries already supply a full 80 percent of the goods and services imported by the Arab world. There is no evidence that these nations are prepared to lose that $50 billion a year market or to jeopardize their stake in the rapidly expanding economies of the Arab nations. Further, there is precious little that the U.S. presently supplies to Arab nations that is not available from sources in other countries and they are eager to take our place. The major Arab states have the funds and the will to incur any costs such a switch might entail. They see that the U.S. has frequently engaged in economic boycotts for political purposes, for example in Cuba, Rhodesia, North Korea and Viet Nam, so they cannot accept the argument that they are not entitled to do the same.

Mr. Chairman, I believe that we must face an essential and widely recognized fact. The Arab boycott has its roots in the broad Israel-Arab conflict and will best be resolved by dealing with the underlying conditions of that conflict.

-- Secretary of Commerce Elliot L. Richardson, June 11, 1976

. . . The Administration's opposition [to additional legislation] can best be understood against the backdrop of forceful action already taken by the Administration (i) to assure that the boycott is free of discrimination against U.S. citizens; (ii) to deal with secondary boycott practices which interfere with economic relations among domestic firms; and (iii) to seek diplomatic modification of the more objectionable manifestations of the boycott. Moreover, we believe that the passage of legislation at this time might jeopardize our ability to continue to work effectively with Arab nations to achieve a just and permanent Mid-East peace -- which is, after all, the only realistic means to end the Arab boycott of Israel.

. . . Avoidance of renewed conflict in the Middle East must be a principal moral as well as political concern of our nation's diplomacy. The wisdom of any new boycott legislation, therefore, must be evaluated on the basis of its likely effect on our ability to help maintain peace.

Our ability to maintain peace can depend upon our economic as well as diplomatic role in the Mid-East since economic and diplomatic goals can be closely interwoven. The goodwill and confidence which we have established with the Arab nations is based in large measure on our evolving commercial relationships and substantial economic connections. Thus, to a very large extent, our ability to assist negotiations to reduce tensions in the Middle East depends on our maintaining close, cooperative economic and political relations with <u>all</u> the countries involved. It is our view that some of the more extreme legislative initiatives, by making it difficult or impossible for U.S. concerns to do business in the Middle East, would jeopardize vital foreign policy and national security concerns.

* * *

-- Assistant Secretary of State Joseph A. Greenwald, June 8, 1976

The Administration shares Congressional and public concerns that the impact of foreign boycotts on

U.S. firms and on friendly countries be minimized. Action to this end, however, should be designed to achieve realistic objectives and to avoid counter-productive reaction. Continued quiet diplomacy and the efforts of individual firms offer the best chance at this time of lessening the impact of the boycott on U.S. firms. This approach has had some success over the past year, as is evident in the modification of some boycott procedures which had been in effect over a long period of time. We believe that further practical progress is likely.

However, it is also clear that the Arab governments are not prepared to drop the boycott altogether except in the context of an overall peace settlement. Proposals at this time for stronger anti-boycott legislation are very likely to be seen as confrontational. We have experienced situations in the past where excessive pressure has produced a backlash which undercut progress being made through diplomatic endeavors. Such confrontation would be harmful to our overall economic and political interest in the Middle East--the most important of which is our desire to promote progress toward a peaceful settlement of the Arab-Israeli dispute.

Expansion of U.S. economic relations with Israel and with the Arab states is an important objective in terms of our own concerns for jobs and exports. Continued improvement in these relations also serves to lessen the reliance of such countries as Egypt, Iraq, and Syria on communist country technology and supplies and facilitates our efforts to play an important role in promoting further progress in Arab-Israeli negotiations. Legislation which would have the practical result of diverting business to the Soviet Union or to such competitors as Japan, Canada, or Europe will weaken the broad based cooperative relationships which enable us to play a constructive role with all of the parties to the Arab-Israeli dispute.

* * *

Some of the provisions of the bills before your Committee would, in effect, codify existing administrative practices or procedures in the Executive Branch. Since there does not appear to be any doubt as to the legal authority conferred by the Export Administration Act for existing practices, such provisions appear to be unnecessary. However, we have no strong feelings about such a codification.

74-772 O - 76 - 42

On the other hand, other provisions of those bills would go well beyond present administrative practices and probably would damage U.S. commercial and foreign policy interests in the Middle East. As Secretary of Commerce Richardson indicated in his testimony on June 11, even S. 3084, "the most moderate boycott related proposal" before the Congress, could have an adverse impact on the ability of U.S. companies to do business in the Middle East and might reduce the United States' ability to carry out constructive diplomatic efforts aimed at achieving lasting peace in the Middle East. As Secretary Richardson testified, the "refusal to deal" provisions of S. 3084 and certain bills before your Committee go beyond existing application of antitrust law, could create uncertainties among U.S. business firms as to their legal obligations, and would result in numerous allegations of "refusals to deal" which would be difficult to prove.

In addition, both Secretary Simon and Secretary Richardson have testified that the requirement for disclosure could have an adverse impact on the development of business relationships in the Middle East. Not only could such a disclosure requirement deter U.S. companies from seeking business in the Middle East (even by companies which do not, for normal commercial reasons, engage in boycottable activities in Israel), but it also could actually result in improved boycott enforcement by publicizing noncompliance with boycott requests as well as compliance. As Secretary Simon testified, such disclosure would give boycott officials an enforcement tool and make it more difficult for Arab businesses to tolerate de facto noncompliance by U.S. businesses.

Support for the Executive Branch's position concerning new legislative measures against the Arab boycott was expressed recently by a representative of a prominent New York bank with extensive domestic and international activities. In a statement on June 8, 1976, before the Subcommittee on Commerce, Consumer and Monetary Affairs of the House Committee on Government Operations concerning boycott activities, Boris S. Berkovitch, Senior Vice President and Resident Counsel, Morgan Guaranty Trust Company of New York, made the following comments with respect to possible new legislative initiatives against the boycott:

> As to the broader question whether Congressional action is called for with respect to the economic boycott of Israel, the Administration has enunciated a position which, in our judgment, is consistent with the economic interests and foreign policy objectives of the United States.
>
> In appearances before Congressional committees, State, Treasury and Commerce department officials have urged the Congress to refrain from actions risking injury to the commercial ties between this country and the Middle East involving billions of dollars in export trade and many thousands of jobs.

> The Administration representatives have pointed out that such actions would carry gravely adverse implications not only for our balance of payments and domestic economy but also for this country's efforts to move the parties to the Arab-Israeli conflict toward a peaceful settlement.

Finally, it seems appropriate to call to your attention the concluding paragraph in a statement of additional views of Senators Helms and Garn which is a part of Senate Report No. 94-917 of the Committee on Banking, Housing and Urban Affairs of the Senate, to accompany S. 3084. The concluding language just referred to is as follows:

> This legislation, therefore, is of little practical benefit, but its cost could be great. At a time of sensitive negotiations in the Mideast, where the United States is playing a major role as mediator, it is not in the national interest to willfully encourage confrontation. In addition, we believe that this legislation would damage trade developments in the Mideast by injecting a further element of uncertainty into existing and future business relationships.

In brief we concur with the Executive Branch and other views cited above and urge the Committee and the Congress not to take actions which could risk injury to the commercial relations between the United States and the Middle East and could impair this country's efforts toward a peaceful settlement of the Arab-Israeli conflict. We respectfully submit that such a counterproductive effect would relate to Israel as well as the Arab nations.

Respectfully,

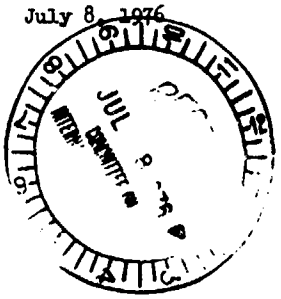
Charles W. Stewart

President

APPENDIX 5

LETTER TO CHAIRMAN MORGAN FROM CHARLES I. DERR, SENIOR VICE PRESIDENT, MACHINERY AND ALLIED PRODUCTS INSTITUTE

July 8, 1976



The Honorable Thomas E. Morgan
Chairman
Committee on International Relations
House of Representatives
2170 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Morgan:

In our letter of June 23 the Machinery and Allied Products Institute submitted views concerning the several bills before the Committee which would amend the anti-boycott provisions of the Export Administration Act. This letter deals with proposed amendments to the "national security" provisions of the Act and our comments are directed principally at proposed amendments to those provisions incorporated in a bill now before the Senate. While we realize that the Senate bill to which we refer, S. 3084, is not before your Committee, it is our understanding that the record on Export Administration Act amendments will be closed shortly. Thus, we want to take this opportunity to offer our views on certain provisions of the Senate bill which might be considered by the Committee in its deliberations on proposed amendments to the Act or which might come formally before your Committee if that bill is passed soon by the Senate.

Summary of MAPI Position

Although we support most provisions of Title I of S. 3084, we object to Section 105 which would establish a new reporting requirement for firms which enter into agreements or understandings which provide for, or may result in, transfers of U.S.-origin technical data to restricted destinations. We believe that, in view of the present scope of the Export Administration Regulations which require Department of Commerce approval for virtually all transfers to Communist countries of U.S.-origin technical data not generally available and the lack of evidence that there have been unauthorized transfers under present regulations, a new reporting requirement is not necessary. However, if the Congress should decide that a new reporting requirement should be adopted, we believe that the language

of S. 3084 should be modified so that it is not necessary for companies to provide "all documents" pertaining to agreements, understandings, etc., relating to transfers of U.S.-origin technical data. Agreements calling for transfers of such data frequently include matters (payment terms, licensing fees, arrangements for profit remittances, etc.) which companies consider highly confidential and generally are unwilling to divulge outside of the company. Since the legal responsibility of the Department of Commerce is only to control exports of U.S.-origin technology (and products), a detailed description of U.S.-origin technical data which will be transferred should suffice.

General

We support the thrust of those proposed amendments to the Export Administration Act contained in Title I of S. 3084 which are intended to (1) provide more flexibility in the scope and application of U.S. export controls, (2) require periodic reassessments of U.S. unilateral controls and multilateral controls in which the United States participates, and (3) enhance the role of the technical advisory committees in the export control process. In addition, as has been amply demonstrated in testimony before your Committee, delays in acting on export license applications continue to be a major problem for exporters of high technology products in particular and we endorse the strongly worded language of the report of the Senate Banking, Housing and Urban Affairs Committee dealing with this subject./1

As noted above, our principal objection to Title I of S. 3084 is the provision which would require reports from persons entering into agreements, understandings, etc., which provide for, or may result in, the transfer of U.S.-origin technology to Communist and certain other nations, and the remainder of this letter deals with that provision.

Text of Provision Requiring Reports
and Senate Committee Report
Discussion of the Provision

Section 105 of S. 3084 would amend Section 4 of the Export Administration Act by adding the following subsection:

> "(j) Any person who enters into a contract, protocol, agreement, or other understanding for, or which may result in, the transfer of United States origin technical data or other information to any nation to which exports are restricted for national security or foreign policy purposes shall report such transaction to the Secretary of Commerce

1/ Senate Report No. 94-917, 94th Congress, 2d Session, May 25, 1976.

> and provide him with copies of all documents pertaining thereto within thirty days of entering into such contract, protocol, agreement, or understanding."

The committee report offers the following explanation of this provision:/1

> . . . Reporting of agreements which would transfer U.S. technology to nations to which exports are restricted for national security or foreign policy purposes would make it possible for the Government to monitor potential transfers of technology outside the export licensing process. It would also make it possible to determine whether additional steps are necessary to prevent uncontrolled leakage of militarily significant technology through technological cooperation agreements. If it is true that technological cooperation agreements are a vehicle, whether intended or not, for circumventing export controls or transferring technology which should be controlled but is not, then the information developed from such monitoring will provide a basis for devising effective remedies.

MAPI's Objections to the Provision

As noted at the outset, we object to the above provisions on the grounds that the need for a new reporting requirement has not been proven and the requirement, as presently drafted, is too broad. Before citing our specific objections, we believe it would be helpful to discuss existing controls on transfers of technology to Communist countries and to provide some information concerning the so-called "technological cooperation agreements" which appear to have been of major concern to the Senate committee.

Government approval already required for transfers of technical data not generally available.--The Export Administration Regulations currently require that virtually all transfers to Communist countries of "U.S.-origin technical data not generally available" (i.e., unpublished proprietary data) must be approved by the Office of Export Administration (OEA) of the Department of Commerce. This requirement for OEA approval for transfers to Communist countries of technical data not generally available applies to data concerning the most commonplace items (such as, for example, toys) as well as machinery and other items which might have militarily significant applications.

The excerpt from the Senate committee report cited above notes that the reporting requirement would enable the government "to monitor

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1/ Ibid, p. 12.

potential transfers of technology outside the export licensing process" and to determine whether additional steps are necessary "to prevent uncontrolled leakage of militarily significant technology through technological cooperation agreements." As just mentioned, unlicensed transfers of technical data not generally available currently are prohibited by the Export Administration Regulations and we cannot see what would be gained by an additional reporting requirement.

Lack of evidence of "leakage" under present controls.--In connection with the question of "leakage" it should be noted that a very similar reporting provision was included in proposed amendments to the Export Administration Act which were considered by the House Committee on Banking and Currency in 1974. While the committee approved adoption of the provision--with certain important qualifications--the committee report included the following comments concerning the "leakage" question:/1

> The Subcommittee on International Trade heard witnesses who alleged that important technical secrets that would endanger national security were being exported to Russia. The preponderance of testimony from expert public witnesses as well as from representatives of the Departments of Defense, State, and Commerce, indicated that this has not been the case.

We are not aware of any evidence that there has been any "leakage" under the Export Administration Regulations since the House committee report cited above.

Most "technological cooperation agreements" are not commercial agreements involving transfers of company proprietary data.--Inasmuch as the Senate committee report on S. 3084 expresses special concern about the technological cooperation agreements as a possible vehicle for "leakage," some discussion of these "agreements" is in order. In 1972 the United States and the Soviet Union signed an "Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Cooperation in the Fields of Science and Technology." Since that agreement, some 50 "technological cooperation agreements" have been signed by representatives of Soviet organizations and U.S. firms. As we understand it, these "agreements" are very general in nature and simply set forth the willingness of the parties to discuss the possibility of technological exchanges in certain broad areas, and cover in general terms other business matters. While the motivation of Soviet officials in seeking to conclude such agreements is not entirely clear, U.S. companies enter into such agreements because it is a necessary

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1/ House Report No. 93-1122, 93d Congress, 2d Session, June 19, 1974, p. 4. It might be noted that while the bill passed by the House contained the reporting requirement which had been requested by the Executive Branch, the Senate bill did not and the provision was dropped in conference.

first step--under Soviet procedures--toward more meaningful commercial discussions with Soviet foreign trade organizations. It is our understanding that these agreements or protocols generally do not involve transfers of U.S.-origin technical data not generally available. Further, it is our understanding that few of the agreements have in fact resulted in more meaningful arrangements calling for the transfer of U.S. proprietary data because of the difficulty in reaching agreement with Soviet officials on the commercial terms of such transactions. When and if it appears that a commercial agreement can be worked out, the U.S. firm is required under present regulations to obtain an export license from OEA before transferring technical data not generally available.

The conclusion of "technological cooperation agreements" is frequently mentioned in the press, and we believe that companies would not object in principle to advising the Department of Commerce as to the types of technology which might be transferred (when and if a commercial agreement is eventually reached) so that the Department could initiate the frequently lengthy review, often involving a number of government agencies, of possible national security implications of such transfers. However, since the agreements are so general in nature and do not involve undertakings to transfer specific types of technology, in most--if not all--cases OEA could not make an effective national security evaluation of any transfer which might result.

The breadth of the reporting requirement.--For reasons which are discussed below, we believe that, if a new reporting requirement is adopted, the language of the Senate bill should be modified so it will not be necessary for companies to provide "all documents" pertaining to agreements, understandings, etc., which provide for, or may result in, transfer of U.S.-origin technical data.

As presently drafted, the pertinent provision of S. 3084 would require companies to report not only the technological cooperation agreements described above but also any agreement which provides for, or may result in, the transfer of U.S.-origin technical data. Agreements involving East European countries--notably Poland, Hungary, and Romania, but also the Soviet Union and other countries in the area--increasingly are of a very different nature than the technological cooperation agreements described earlier. These include turnkey projects for complete plants, conventional manufacturing licensing agreements, joint ventures and other forms of joint undertakings, the details of which (payment terms, licensing fees, arrangements for profit remittances, etc.) companies regard as extremely confidential and generally are unwilling to report outside of the company. Since the legal responsibility of the Department of Commerce is only to control exports of U.S.-origin technology (and products), we do not believe the Department needs to have "all documents" pertaining to such agreements. A detailed description of U.S.-origin technical data not generally available which will be transferred would suffice. As already mentioned, exports of such technology currently require a license from the Department of Commerce.

It should be noted in this connection that the House Banking and Currency Committee stated in its 1974 report on a similar reporting proposal, which was mentioned earlier, that the requirement in the bill before it to report the details of transactions "shall not extend to information with respect to payment terms, fees, and remittance arrangement."

Other.--We have two additional comments concerning the wording of the reporting requirement of the Senate bill which we ask be considered if a reporting requirement is eventually enacted:

-- The reference to "United States origin technical data or other information" should be changed to "United States origin technical data not generally available." The term "technical data" is given very broad definition in the Export Administration Regulations and even includes published information. The thrust of U.S. export controls traditionally has been to restrict transfers of "U.S.-origin technical data not generally available" (i.e., unpublished proprietary data related to design or production).

-- The applicability of the reporting requirement to data transfers to any nation to which exports are restricted for foreign policy (as well as national security) purposes seems unnecessary and could result in problems of interpretation for the Department of Commerce. The objective of technical data controls has been to prevent transfers of technology which could make a significant contribution to the military potential of other nations which may affect the national security of the United States. "Foreign policy" controls are exercised in situations as diverse as Southern Rhodesia (where virtually all exports and reexports of U.S.-origin projects and technical data are prohibited) and South Africa (where special restrictions apply only to exports likely to have a military end use). In addition, the "foreign policy" authority of the Export Administration Act is used to require a validated license for exports to all destinations of products (and technology) of a non-military nature which might be used in connection with the development of nuclear weapons and their delivery systems.

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If the Institute can be of further assistance to the Committee in its deliberations, please let us know.

Respectfully,

Senior Vice President

APPENDIX 6

STATEMENT OF THE AMERICAN INSTITUTE OF MARINE UNDERWRITERS

The American Institute of Marine Underwriters is an association of insurance companies which are authorized to write marine insurance in the United States. The Institute was founded in 1898 although its predecessor organization, the Board of Underwriters of New York, traces its lineage to 1820. At present the Institute membership lists some 120 companies in the marine area whose coverage includes hulls, cargo, liability for personal injury and death, hull and cargo war risk, and statutory liability for pollution of the seas by oil or hazardous substances. Over the decades the Institute and its members have contributed significantly to the growth and development of the United States maritime industry, and, at present, represent a significant share of what has come to be recognized as one of the world's leading insurance markets.

The American Marine Insurance Industry is interrelated with and makes significant contributions toward the development of a strong domestic economy. It provides the lubricant necessary to permit safe and inexpensive transport over water of goods and raw materials, both foreign and domestic, which comprise the heart of American Industry and Commerce. The domestic marine insurance industry also plays a significant role in the implementation of the foreign policy of the United States and in obtaining and maintaining a favorable balance of payments position.

In recent weeks the Institute has become increasingly aware of legislation being introduced (Pennsylvania) and enacted (New York, Maryland & Illinois) on the state level which has dealt with foreign inspired discriminatory practices and boycotts. The State of New York, for example, enacted legislation, effective January 1, 1976, which makes it an unlawful discriminatory practice to discriminate against, boycott or blacklist any person because of race, creed, color, national origin or sex. The New York law makes it ". . . an unlawful discriminatory practice to aid, abet, incite, compel or coerce the doing of any of the acts forbidden" in the legislation.

The enactment of this this type of legislation on the state level has had a significant impact upon the amount of export related business being conducted within the affected areas. The Institute has witnessed, for example, a substantial shift of boycott related insurance requests away from insurers in New York, and more recently Maryland, to foreign based insurance concerns or concerns whose interests lie primarily in other jurisdictions.

The Institute, while sympathizing with the principles which motivated the introduction and passage of these various state laws, nonetheless feels strongly that the American businessman is being substantially harmed in those states where such legislation exists without furthering those principles which we all support. This is, in our opinion, an area in which diplomacy on the part of the Federal Government and not state legislation is required. To take a contrary position we feel will have the practical impact of either forcing existing business with nations, who inspire and promote the offending practices, out of the United States and into the hands of our competitors or of fostering division and geographic discrimination within the export community of the United States or both.

Certainly no one can or should condone discriminatory practices based on racial or religious grounds. The solution, however, to such discriminatory practices cannot be found on the state level for international trade. It must be dealt with on a federal level preferably through diplomatic channels. If diplomatic efforts fail or if Congress should determine that legislation is required, the Institute strongly urges that such federal legislation contain preemptive language so that regional or state differences will not result in geographic discrimination between American businessmen.

To sum up, (1) while we strongly condemn foreign inspired discriminatory practices and trade restrictions based on noneconomic factors, the Institutes believes that such practices should be corrected through diplomatic or political channels rather than at the expense of a state or regions, economy, and (2) that if such measures are ineffective and legislation is required then it should be on the federal level and contain preemptive language.

APPENDIX 7

STATEMENT OF DR. HERSCHEL CUTLER, EXECUTIVE DIRECTOR, INSTITUTE OF SCRAP IRON AND STEEL, INC.

This statement is submitted on behalf of the Institute of Scrap Iron and Steel, Inc., a national trade association representing approximately 1,460 processors, brokers and dealers of metallic scrap, and industry suppliers. Institute members process, ship or otherwise handle approximately 90-95% of the iron and steel scrap purchased in the United States and handle equally impressive percentages of the many other metallic solid waste materials which are recycled in our economy.

A continuing debate with respect to the Export Administration Act has taken place between the ferrous scrap processing industry and the steel and foundry industries, the two domestic industries purchasing ferrous scrap. This debate has included disputes concerning both the statutory short supply provisions and the Department of Commerce's administration of the Act.

Export controls were placed on ferrous scrap from July, 1973 through December, 1974. During the deliberations on the extension of the Export Administration Act in 1974, significant time was devoted to the question of export controls on ferrous scrap.

We believe no one seriously suggests a need exists at the present time to reopen that debate. */ Accordingly, the Institute recommends that the short supply portion of the Act be extended in its present form. The Institute's support for extension of the short supply controls in their present form is not to suggest that the Institute agrees with the manner in which the Department of Commerce has imposed export controls on ferrous scrap in the past. However, the Institute believes that it is unnecessary to reopen the issue at the present time since the present concern, if any, deals with administrative action, not legislative intent.

The one issue which has been raised with respect to short supply export controls is whether formal monitoring should be instituted for ferrous scrap. The remainder of this statement is a summary of the Institute's views on the manner in which the Department of Commerce has and is carrying out its monitoring responsibilities under the Act. The Institute believes that the Act sets out specific, unambiguous criteria as to when monitoring is to occur and that the Department of Commerce has fulfilled its responsibilities in accordance with these criteria.

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*/ For the Committee's information, the Institute's 1974 statement on the Export Administration Act before the House Banking and Currency Committee on the issue of legislative imposition of export controls on ferrous scrap is attached.

The Department of Commerce properly has not implemented formal monitoring of ferrous scrap exports for the simple reason that none of the criteria for implementation of monitoring exists. Under the Act monitoring is to occur:

(1) when the volume of exports in relation to domestic supply contributes or may contribute:
   (a) to an increase in domestic prices, or
   (b) to domestic shortages; and

(2) such prices or shortages have or may have a serious adverse impact on the economy or any sector thereof.

None of the criteria set forth in number (1) have existed since enactment of the monitoring provision in 1974. It thus is unnecessary to even reach the issue posed by number (2).

U.S. exports of ferrous scrap in 1974, while under export controls, were 8.7 million net tons. Using 1976 export statistics through April, the only data available for 1976, the annualized rate of exports would approximate 7 million tons for 1976. The export market is weak at the present time, and thus is exerting little, if any, effect on either domestic price or domestic supply. This fact is obvious and cannot be challenged.

The statement that exports have little or no effect on current scrap prices is documented by the fact that there is little or no foreign buying at present prices and in fact,

coastal prices for scrap tend to be significantly lower than prices for comparable scrap in internal U.S. markets. Thus, the price increases are purely a domestic phenomena.

It also is a fact that the supply of scrap increased during the past year, adding to the vast reservoir of untapped supply already existing. First, while total ferrous scrap sales in 1974 were approximately 60 million tons, they dropped to approximately 45 million tons in 1975. An industry which produced 60 million tons in one year clearly could have generated more than the 45 million in the next. Scrap which would have been processed and bought in 1975 if demand had been sustained, thus, was added to existing supply throughout last year. With the present upturn in the economy, discretionary consumer buying can be expected to increase during the current year, with the resultant increase in scrap supply from discarded automobiles and appliances. This increase in supply is confirmed by a visual survey of inventories at most scrap processing yards in the United States and in many steel purchasers' yards. Inventories of scrap are running at very high levels.

As the preceding discussion has shown, there clearly was and is no need for the Department of Commerce to engage in formal monitoring, given the situation within the ferrous scrap market over the past 18 months. In addition, there appears to

be no need for any revision in the criteria since they are sufficiently broad to give Commerce the authority to monitor virtually any commodity where there appears to be any significant effect of exports on either domestic prices or domestic shortages.

In analyzing the Department of Commerce's determination whether to monitor, it is important to recognize the effect that formal monitoring has on the international market and the expense which needless formal monitoring imposes on the Department, the industries involved, and on society. Once formal monitoring commences, a signal has been given to both domestic and foreign purchasers that the Department considers a problem to exist that could in the future justify imposition of controls. This action in and of itself can be potentially disturbing to the market, forcing excess ordering and protective positioning, and thus should not be undertaken prematurely.

If a need for information exists, this can be obtained by the Department of Commerce through informal inquiries until such time as the Department determines that a need for formal monitoring exists. The Department of Commerce currently is engaging in an extensive informal data gathering program. The ferrous scrap processing industry accepts and supports voluntarily this informal program because it believes the Department of Commerce should know as much as possible about the ferrous scrap market. The present informal system consists of at least

the following steps of which the Institute has knowledge. First, the Department engages in on-going discussions with the Institute concerning the status of the ferrous scrap market. Second, high level representatives of the Department have visited and are visiting scrap processing yards, steel mills and foundries to secure an impression of current supply and inventory conditions. Third, scrap processors voluntarily are supplying the Department with information about forward export orders and export shipments.

Congressional concern when it legislated formal monitoring was that the Department of Commerce have sufficient information upon which to base a decision to impose export controls. The Department is keenly aware of the current status of the ferrous scrap market and has been following economic conditions in this industry on a detailed basis for years. It currently has sufficient information upon which to base decisions as to whether the criteria for imposition of formal monitoring exists.

It is important to note that during the period when formal monitoring of ferrous scrap existed the information provided included (1) forward export orders and (2) shipments. This is the same information now being supplied to the Department of Commerce on a voluntary basis by the scrap processing industry.

Since the costs of monitoring can be significant, formal monitoring should not be undertaken at the whim of a particular industry but should be utilized only with a fixed purpose in mind,

a purpose which cannot be reached any other way. Present law provides such a clearly defined purpose and mandates monitoring when its criteria are met.

The imposition of controls without appropriate consultations with concerned nations or the improper and ill-timed introduction of monitoring, can lead to retaliatory actions on the part of those adversely affected by the unilateral U.S. Government action. Thus, unilateral actions on the part of governments must be well-reasoned and justified.

The Institute, accordingly, has on numerous occasions, most recently via participation before the Special Trade Representative, recommended the concept of an international Code on Export Controls within the GATT. If nations agree to consultations and to a specific set of criteria, guidelines, and procedures so that actions necessary to the well-being of one nation can be undertaken without impinging unreasonably on the sovereignty of other nations, the role of stable international trade in reducing or relieving material crises will have grown tremedously.

The current act provides a mechanism where commodities which actually are in short supply may be monitored and then controlled by the Department of Commerce. The temptation nevertheless exists to attempt to use this Act as a form of price control. In a recent article in the Metal Market, the fact that export controls are sought solely to regulate price was reemphasized:

> None of the executives contacted expressed any concern about getting scrap. In 1974, when prices were high, "there was never a scrap shortage," [an industry spokesman] recalled....[The spokesman] said he thinks that export controls should be imposed when scrap gets to a certain level, perhaps $100 per ton." [Am. Metal Market, 2/26/76 at 1.]

Utilization of the Export Administration Act to control price is inappropriate and an improper form of export control.

PREPARED STATEMENT OF BERNARD LANDAU, PRESIDENT, INSTITUTE OF SCRAP IRON AND STEEL, INC. (ISIS)

This statement is submitted on behalf of the Institute of Scrap Iron and Steel, Inc. (ISIS), a national trade association representing approximately 1,250 processors, brokers and dealers in the metallic scrap processing industry. Institute members process, ship or otherwise handle approximately 90% to 95% of the iron and steel scrap purchased in the United States and handle equally impressive percentages of the many other metallic solid waste materials which are recycled in our economy.

Over the past year and one-half, the ferrous scrap industry has been the object of an intense and incessant lobbying campaign to impose or expand export controls. Recently, this campaign has included attacks on the motives of the ferrous scrap industry. The following statement will rebut these charges to the extent that they are relevant to this Subcommittee's consideration of possible revisions to the Export Administration Act. In addition, the statement contains suggested revisions of the Act. These amendments are based upon the ferrous scrap industry's experience with the implementation of controls during the past year.

I. FERROUS SCRAP MARKET

In testimony before this Subcommittee in March, 1973, the Institute described the operation of the ferrous scrap market in some detail.[1] Rather than repeat this discussion, the major points from that statement are summarized here and are supplemented by a description of developments which have occurred in the past year.

A. How the Ferrous Scrap Market Functions

The ferrous scrap processor is in a demand-derived industry. It is an industry in which the market functions in reverse of the traditional marketplace. Thus the saying, "scrap is bought, not sold."

1. *How market prices for ferrous scrap are established.*—At any given time (domestic industry practice is generally monthly) major consumers (steel mills and foundries are the only significant consumers of scrap) advise the price they will pay for ferrous scrap and the tonnages they require for delivery in 30 days. The consumer establishes the market for ferrous scrap based on his needs and the price that he feels is adequate to cause that required tonnage to move to his plant, the need of competing consumers for scrap (in and out of his market area), his calculation as to ferrous scrap availability, etc.

After consumers have arrived at price and tonnage requirements, individual scrap processors must then calculate backwards these two factors in relationship to the cost of purchasing the unprepared scrap to fill the orders, and the processing and overhead costs, to determine if they can meet the needs and operate their businesses at a reasonable profit.

The scrap processor will adjust his buying prices of unprocessed ferrous scrap to collectors (and others) from whom he buys obsolete material, to *reflect the prices established by consumers of prepared scrap.*

All of this happens generally within a 30-day period and usually 12 times each year. Although the scrap processor is committed to operate a capital intensive manufacturing plant year-round to prepare scrap, he generally has a commitment for no more than 30 days as to the amount of scrap consumers will buy and the prices which they will offer for that scrap. Because the scrap iron has no other utility than to be remelted by steel mills and foundries, the scrap market

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[1] Hearings before the Subcommittee on International Trade of the House Banking and Currency Committee on H.R. 5760 at 398–402 (1973).

is erratic and subject to sharp peaks and valleys based on the demands of these mills and foundries.

It should be noted that there are nearly 20 major regional markets for ferrous scrap listed by industry trade publications. The price of scrap is not necessarily the same in these various areas at any one time. Also, there are more than 80 different grades of scrap, most of which are bought at different prices. Prices most often quoted are for No. 1 Heavy Melting Scrap—a bellwether grade for the industry. No. 1 Heavy Melting is considered one of the prime grades and therefore is higher in price than most other grades.

2. *Buyers of Scrap.*—Throughout 1973, steel mill operating rates were at or near capacity due to the tremendous demand for steel. Steel and foundry production records were broken, yet delivery delays for finished iron and steel were in many cases six months or longer. There is a shortage of finished iron and steel even with steel producers operating at capacity. This is due not to a shortage of scrap but to a deficiency in steel-making capacity.

The record-breaking demand for steel caused the major steel producers—the inegrated mills who rely almost exclusively on iron ore as their purchased raw material for iron units—to enter the ferrous scrap market. Many of these mills had not purchased any ferrous scrap for some period of time, and others had purchased minimal amounts at best, and as a matter of fact, many of these mills had been constant sellers of "home scrap." However, with high operating rates, and blast furnaces (which reduce iron ore to hot metal for charging into the steel-making furnace) operating at capacity, the way to get additional iron units for furnace charging was to purchase ferrous scrap.

This meant that in addition to the "regular" consumers of ferrous scrap there suddenly appeared substantial tonnage requirements by major integrated steel mills. The addition, numerous new electric furnaces (which use virtually 100 percent scrap) went into operation during 1972–1973. As a result, purchase prices were increased by the "new" consumers to attract the tonnages of ferrous scrap they required. "Regular" customers responded by meeting or exceeding these prices and the spiral began.

With consumers offering higher prices for the scrap they needed, the scrap processor in turn was able to increase the prices he was paying for unprepared materials for processing in his plant. Because of higher prices being paid at all levels in the scrap cycle, a substantially increased amount of prepared scrap was processed and shipped in 1973 by the scrap industry.

Despite the significant increase in demand for its products in 1973, the scrap industry met the demand from *all* consumers, and will again in 1974 prove capable of repeating that performance.

B. Types of Scrap

The collection of obsolete scrap cannot be turned on immediately as one would turn on a water faucet. The individual using his truck for some other purpose, may, when it is to his economic benefit, begin to bring scrap into the processing plant.

That individual also remembers the last time there was a sharp increase in demand for scrap in 1970, which, after five to six months, decreased just as sharply, causing him to stop collecting scrap and to find another source of income. He has been subjected to the "on and off" demand for scrap and considers that economic risk factor before entering the scrap collection system again.

It is dollars which attract this individual to collect and transport obsolete scrap. These come from the additional dollars ferrous scrap consumers are paying to scrap processors—in essence the processor passes dollars through to attract the additional unprepared material required.

For example, at $5.00 or $10.00 per ton, an auto hulk may not move from a rural area to a processing plant—it may not move from an urban area at that price. However, at $30.00, $40.00 or $50.00 per ton, hulks are being transported hundreds of miles. Movement of obsolete scrap is a function of price.

In the case of prepared industrial and railroad scrap, the scrap company realizes little more than a nominal brokerage fee. The increase in the price of scrap was of benefit to the selling railroad, not the scrap processing industry. For example, on March 13, 1972, scrap companies paid the railroads $45.00 (per gross ton) for scrap steel car wheels. On March 13, 1974, the price paid to the railroads for that same commodity was $163.00.

The same is basically true for generators of industrial scrap. They are realizing the income of current scrap prices.

Industrial scrap is the "leftovers" when new products are manufactured from steel. For example, when a fender is stamped out of a sheet of steel the left-over portion is sold for scrap. This type of material is generally desired by scrap consumers because of its known chemistry, and therefore will always move, even in depressed scrap markets. In a period of strong demand, the price for this type of mtaerial is bid up by consumers and tends to establish price levels for other grades of scrap.

The current reduction in production of autos and home appliances has reduced the generation of industrial scrap from these plants, which has been a contributing factor to higher scrap prices, as consumers bid the price up for the limited tonnages available from these sources.

C. Critical Shortage of Railroad Gondola Freight Cars

More than two-thirds of the scrap moved in the U.S. is transported by gondola cars—the type of freight car provided by the railroads for scrap service. At the present time, hundreds of thousands of tons of prepared ferrous scrap are sitting in scrap processing plants because the railroads cannot provide sufficient gondola cars to ship the material to consumers. In fact, the number of gondola cars has been declining steadily over the past 20 years, a situation which the government and the railroads are aware of, but has been ignored. Orders placed for additional gondola cars declined from 3,038 in the first half of 1972 to 707 during the first half of 1973, as compared to a total car building program of 51,644 cars, an increase more than double the same period in 1972.

Unfortunately, little scrap can be transported to the steel industry via trucks, but for good reason. Steel mills, which are huge installations, are set up to receive raw materials by rail delivery. Gondola cars average more than 50 tons of scrap per car. The maximum for trucks is generally 20 to 25 tons. Thus, there are significant congestion and safety problems to consider. Also, scrap is generally unloaded directly from the rail car into the steel making furnace.

The standard contractual agreement between the buyer of scrap and the scrap processor provides for cancellation of the order by the *buyer*, if the material is not delivered within the contractual period, usually 30 days. If the scrap processor is unable to get railroad cars to ship his material within the contractual period, the consumer can simply cancel the contract. Why would a scrap processor knowingly stock up on large amounts of unprepared materials for future sales under the ever present threat of prompt cancellation of his orders for processed materials in the 30-day period? Therefore, the constant critical shortage of gondola cars has not only been a major contributor to erratic geographical materials dislocation, it has also inhibited future sales of processed scrap by the individual scrap company.

D. Shortage of Metallurgical Coal for Steelmaking

Increased domestic steel production, exports and the recent coal miners strike have created a shortage of metallurgical coal which caused major integrated steel producers to cut back blast furnace operation. Since this means that hot metal production will be cut back, additional iron units come from scrap. According to IRON AGE (3-25-74) "Stocks of coke were down to 7.5 days supply—compared to more than 18 days supply a year earlier. For spot coal, buyers were paying up to $35 a ton, or seven times more than the price of a few years ago. Imported metallurgical coke was bringing $85 a ton—when available."

II. FERROUS SCRAP PRICES EFFECT ON ENVIRONMENTAL QUALITY

The strong demand for ferrous scrap and resulting price levels is having a positive effect on the nation's environment. Abandoned and junk cars, obsolete farm machinery and other types of metallics which can be seen cluttering the nation's streets and countryside are finding their way to scrap processing plants. The Institute has maintained for years that when the economics are right, metallic solid waste such as junk cars, will move to scrap processing plants. As a result, the tremendous backlog of obsolete ferrous scrap (estimated to be 750 million tons by the Battelle Memorial Institute in 1969) can be manufactured into man-made resources for remelting by steel mills and foundries. Because of current price levels for scrap, this huge accumulation of obsolescent metallics scattered throughout the United States is beginning to be reduced.

III. DEVELOPMENT OF FERROUS SCRAP EXPORT MARKET

The export of ferrous scrap from the United States developed because the domestic consuming industries would not purchase all of the scrap iron that was available and other countries of the world needed this raw material.

The first occurrence of international demand was in the early 1920's. Since the United States was (and remains) a scrap surplus nation, trade was undertaken.

Although the tonnages cannot be compared to more recent times, the historical relationship of domestic needs for iron and steel scrap and the scrap processing industry's ability to process and ship scrap are matters of record. Since there are only two domestic industries which consume significant volumes of ferrous scrap—the foundry industry and the steel industry—export, by necessity, provided a third market for scrap iron which could not be used in this country.

Even though the scrap processor then and now would prefer to have his product purchased domestically, U.S. consumers of ferrous scrap, heavily tied to owned or controlled virgin materials, did not choose to use the scrap available. Other nations of the world had a need for scrap, which scrap was not wanted by U.S. consumers, and to survive as an industry, the scrap processor had no alternative but to enter the international market.

The exportation of iron and steel scrap began to reach more substantial tonnages in the mid-1950's. Again, it was a case of supply and demand—an excess of supply of scrap in the U.S. and a need for scrap by other nations of the world.

In the late 1950's and early 1960's, with the introduction of the basic oxygen furnace process of steelmaking, the domestic steel industry's need for purchased scrap further declined. Whereas the open hearth furnace required 40% to 50% scrap, the BOF used 25% to 30% scrap, most of which originated in the mill as "home scrap".

In 1956, domestic consumers purchased a then record 36.8-million net tons of iron and steel scrap; 6.3-million net tons were exported. It was not until 1969, *13 years later*, that the domestic consumers purchased more scrap than in 1956 and that was only by 100,000 net tons. Raw steel production increased from 115-million net tons in 1956 to 141-million net tons in 1969.

It was during these years that the American scrap industry was able to survive, although many firms went out of business, because of the foreign demand for iron and steel scrap. In fact, if it were not for these years of export trade, the scrap industry today would not be prepared to meet the needs of even its domestic customers.

It should also be noted that in 1956, iron ore imported jumped from 26-million net tons in 1955 to 34-million net tons, reaching a peak of more than 50-million net tons for the years 1965, 1966 and 1967 before declining to 46-million net tons in 1969.

What the scrap industry witnessed in those years was a definite drop in the domestic consumers' desire to purchase their product, a dramatic increase in the imports of iron ore and a need to cultivate world markets for ferrous scrap in order to stay in business.

It is most interesting that at no time during those years, did the scrap iron industry ask to curtail imports of iron ore to protect the domestic scrap industry. The Government was never asked to force the domestic steelmakers to rely first on scrap generated by the U.S. and only then to allow the importation of iron ore.

The tremendous tonnages of iron and steel scrap that accumulated in the form of obsolete automobiles alone was visable recognition of the metallic solid waste problems this country faced in the late 1950's and 1960's because there was a limited domestic market for the processed material. The scrap processing industry, has, by necessity, thus been forced to rely on a foreign market for its surplus scrap—which, if not recycled, undermines our efforts to achieve environmental quality.

And it is important to stress that the scrap industry prefers to sell its material to domestic users. This economic rationale may not be apparent. The shipper of scrap domestically is faced with fewer credit, shipping and liability problems in contrast to the magnified difficulties in each of these areas when foreign trade is involved.

(1) The average rail shipment is a car of 50 to 55 tons (even multiple car shipments amount to only 500 to 1,000 tons) whereas the typical ocean-

going ship today is 20,000 to 25,000 tons of carrying capacity. The costs of capital involved in the gathering, processing, and concentration of such volumes is immense as is the storage problem and scheduling required to insure that the material is dockside when the vessel arrives.

(ii) The paperwork and documentation necessary to export is infinitely more complex than the simple bill of lading to ship to a domestic user.

(iii) Credit is more readily established in this country than in foreign transactions.

(iv) Inspection of the material sold (all scrap sales are subject to receivers' weight and inspection) occurs thousands of miles away where little can be done, in contrast to the domestic scene where the inspection may occur near the origin.

(v) Vagaries of the sea, including the possibility of late ship arrival or departure, delayed loading, etc., each of which is very expensive in terms of demurrage ($3,000 per day per ship is not unusual) adds further hazards to the foreign trade area.

The recognition that the risks of trading overseas are greatly magnified has not stopped the export trade of scrap from this country. The reason for this is that the absence of viable domestic markets has required the development and maintenance of foreign markets to preserve the domestic scrap processing industry. In the absence of foreign demand, the scrap industry would be further atrophied and unable to perform as desired by the domestic consumers.

Moreover, like any buyers, foreign consumers have a right to rely on the stability of their supply sources. They cannot be expected to provide a market when the exporter needs it and to rely on other sources when the "fair-weather buyers" of the exporter suddenly find it to their advantage again to enter the scrap market. The capriciousness of suggestions to embargo ferrous scrap would seriously harm this market throughout the world. This is particularly true when such a policy can affect the future size and breadth of the foreign market. If foreign steelmakers become convinced that they will be unable to secure ferrous scrap on a regular basis, this will affect their long-term planning, causing them to become more committed to iron ore intensive facilities than otherwise would be the case.

World trade is not something that can be turned on and off; one customer is a valued asset that is not exploitable at the whim and fancy of other customers. The domestic steel industry is supplying first and primarily those customers who have remained loyal to the domestic steel producers during the past years of low steel demand and only then is it considering the orders of those customers who had strayed from their doors. The scrap industry is not setting such priorities; the scrap industry has met, is meeting and will continue to meet the needs of its domestic and foreign consumers. All that is asked is that the industry be permitted to produce and sell to all of its customers.

IV. SUPPLY OF FERROUS SCRAP

Much of the debate concerning the appropriateness of export controls with respect to ferrous scrap has centered on the question of whether this scrap was in short supply. Ferrous scrap was not in short supply in 1973, as evidenced by the ability of the scrap processing industry to meet an estimated demand of possibly as much as 60-million tons; nor is it short supply today, as evidenced by the fact that obsolete scrap continues to pour into scrap processing yards. In addition, the steel and foundry industries are showing by their actions at the present time that no shortage exists. Cancellations of orders now are occurring. Clearly, a purchaser who believes a commodity to be in short supply does not cancel an order unless he believes that supply is in excess of total demand.

Undoubtedly, the greatest deficiency in the present analysis of the ferrous scrap market is the availability of fully reliable data on the supply of ferrous scrap currently available for recycling. The Battelle Memorial Institute has estimated that 750-million tons of ferrous scrap has been discarded in the past and is theoretically available for recycling. In addition, Battelle estimates that only 60% of the ferrous scrap annually available for recycling was actually being recycled. The steel industry disputes these figures by arguing that much of this scrap cannot "economically" be recycled. Without becoming embroiled in a controversy as to the meaning of "economically recycled," it is clear that major

sources of obsolete scrap have not been recycled to the extent of their potential as the Battelle study and the accelerated flow of unprocessed scrap indicate.

V. EXPORT ADMINISTRATION ACT EXTENSION

The preceding extensive discussion of the specifics of the ferrous scrap industry has been necessary because of the vehement campaign for export controls on scrap iron being waged by the steel and foundry industries. Hopefully, the preceding discussion has served to place the numerous allegations in proper perspective. With this perspective in mind, attention now can be focused on the various proposals to amend the Export Administration Act. In summary, ISIS acknowledgesthe need for some form of export control authority to protect U.S. national security, foreign policy interests, and U.S. supplies of goods which actually are in short supply.

The Institute's experience with export controls during the past nine months suggest to it, however, that certain procedural safeguards are desirable to protect the interests of exporters both during the period when imposition of controls is under consideration as well as in the period after the Department of Commerce has determined to impose controls. Finally, ISIS supports proposals by Senators Mondale and Ribicoff to authorize the use of retaliatory export controls against countries embargoing exports to the United States and suggests some technical modifications to this proposal.

A. Policy Considerations

The Institute's concern with the Export Administration Act involves only the short supply controls and the following comments are directed only to this aspect of the existing legislation. In evaluating the short supply controls in the 1969 Act, a number of policy considerations must be borne in mind. First, experience over the past year has shown that the Department of Commerce has the ability to impose controls when it determines them to be appropriate. No need exists for expansion of the Commerce Department's legal authority to impose controls.

Second, export control legislation always has dealt with the imposition of controls in general terms without attempting to single out any industry for Congressionally-imposed controls. The reasons for such an approach are obvious. Congressional action with respect to a specific commodity would of necessity force Congress to make a determination with respect to serious factual disputes. Under these circumstances, imposition of controls would be special-interest legislation dependent primarily on the number of legislators which that interest group could contact to present one side of the dispute. No adequate forum within Congress exists to afford all members the opportunity to hear all sides at any moment. No right to cross-examine assertions of the party pressing for controls exists in this situation. Because of all of these difficulties, the quasi-judicial determination of whether to impose controls has been left to the Department of Commerce under past export control legislation. This approach should be followed by the Congress in extending export control authority.[9]

Third, export controls have a harmful effect on the U.S. balance of trade since they reduce U.S. export receipts. A total embargo on ferrous scrap exports would have a negative effect on the U.S. balance of trade of almost $850,000,000. In fact, the negative balance of payments of more than $500,000,000 in 1973 resulting from iron ore imports are offset by the export of scrap iron. Steel industry statistics concerning imports of finished steel are irrelevant to the discussion of the balance of trade impact of a scrap embargo since these finished steel imports will occur regardless of a scrap embargo. The domestic steel industry admittedly cannot meet present demand and thus foreign steel imports will continue to flow into the U.S. without regard to ferrous scrap exports. The effect of a scrap embargo on the U.S. trade balance, thus, clearly is negative.

It is important to note that admitted shortages of metallurgical coal and finished steel exist, yet the Department of Commerce has not seen fit to impose export controls on either of these items. Why should the scrap industry, a small relatively insignificant segment of the U.S. economy be singled out for export controls? The obvious answer is that these controls are sought for the self-serving interests of the American steel and foundry industries.

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[9] Bills providing for specific quotas or embargoes, such as H.R. 10763, H.R. 12293 and H.R. 12249, thus, should be rejected by the Subcommittee.

Finally, it should be noted that the steel and foundry industries are not suggesting that any export sale lost because of export controls will be offset by increasing domestic consumption. What these industries suggest is that export sales of ferrous scrap be reduced or eliminated so that they can benefit even further from present high demand levels. Such a policy in fact simply assures that ferrous materials which would have been recycled but for the export controls will become part of the solid waste problem in the United States.[5]

B. Suggested Revisions to the Export Administration Act

1. *Procedural Safeguards.*—Experience with export controls on ferrous scrap over the past nine months has led the Institute to the conclusion that further procedural safeguards with respect to short supply controls should be included in the Act. These additional procedural protections are especially appropriate at a time when the world economic system moves into a period when many raw materials are reported to be in short supply. Export embargoes can have disrupting and potentially harmful effects on U.S. firms which traditionally have engaged in international trade. Governmental action capable of such consequences should be undertaken only after the parties involved have had a reasonable opportunity to present their position. In addition, this action should be based upon an administrative record and should be subject to judicial review.

The Department of Commerce has sought to secure the information necessary for it to make its decision through informal technical advisory committee meetings. These meetings proved useful, but it would have been fairer to the parties involved if the decision actually to impose controls had been taken after a full evidentiary hearing where all parties were subject to cross-examination. Such a procedure is particularly applicable for material such as ferrous scrap where a serious factual dispute has arisen as to whether a shortage in fact exists. In fact, a requirement should be added that the Department of Commerce prepare for review a supply situation study prior to considering imposition of export controls on any commodity.

In addition, judicial review of the short supply determination should be included in the Act. At the present time, the Secretary of Commerce's actions are exempted from the administrative procedure and judicial review provisions of the Administrative Procedure Act.[4] An exemption from formal procedural and judicial review requirements clearly is warranted for national security or foreign policy controls, but is unnecessary when the only issue involved concerns short supply controls. Section 7 of the Export Administration Act, thus, should be revised to remove short supply controls from the exemption provisions.

2. *Retaliatory Export Controls*

A number of proposals to grant authority for retaliatory export controls have received considerable attention lately, prompted in large part by the recent oil embargo. Senators Mondale and Ribicoff have proposed inclusion of such counter-embargo authority in the Trade Reform Act;[5] Senator Childs has proposed its inclusion in the Export Administration Act;[6] and the Administration has suggested that existing law gives its sufficient authority to impose retaliatory controls if its deems them advisable.[7] The Mondale proposal also would authorize the negotiation of an international agreement regulating the resort to export controls.

These proposals appear desirable and should be included in the Export Administration Act. Existing proposals should be modified, however, to provide more specific criteria as to when these retaliatory measures can be imposed.[8] The

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[5] A trigger mechanism device developed by the steel industry would have reduced total scrap actually processed during the four-year period from 1969 through 1973 by approximately 14-million net tons. This is a loss to the economy of between $700-million to $1-billion. Such legislation, thus, clearly is designed only to benefit the steel and foundry industries, not to insure maximum recycling.

[4] 50 U.S.C. App. § 2407.

[5] See Congressional Record, December 3, 1973 at S. 21683–6.

[6] S. 3030.

[7] Testimony of Secretary Dent before the Senate Banking, Housing and Urban Affairs Committee on April 5, 1974.

[8] One proposal for such criteria would permit counter-embargoes only after a determination has been made that their imposition will not have significant, adverse economic, social or environmental consequences within the United States, and only if the foreign action precipitating the United States controls has had a significant effect on United States economic or foreign policy interests. This proposal also suggests that the legislation include a provision similar to § 203 of the Trade Reform Act which establishes a preferred order of import relief measures requiring the President to consider increased tariffs or quotas on imports from the offending country before resorting to export controls.

procedural safeguards discussed in Section V.B.1. of this statement also should be extended to retaliatory export controls.

8. *Commerce Department Proposals for Administration of Short Supply Export Controls.*—The Administration proposals for amendment of the Export Administration Act, H.R. 13840, include a provision authorizing the President to effectuate the policy of the Act by "whatever method of regulation he deems most appropriate, including, but not limited to, the imposition of an export fee or the auction of export licenses."

This proposal appears to be both unconstitutional and undesirable. Article I, Section 9 of the Constitution provides that: "no tax or duty shall be laid on articles exported from any state." Pursuant to the Export clause taxes have been struck down on foreign bills of lading,[9] charter parties,[10] and marine insurance policies.[11] The dicta in the cases indicates that the Constitution bans all forms of taxes on exports from the United States. For example, in *Fairbanks* v. *United States*[12] the Supreme Court stated:

> "The requirement of the Constitution is that exports should be free from any governmental burden. . . . In like manner, the freedom of exportation being guaranteed by the Constitution, it cannot be disturbed by any form of legislation which burdens that exportation. The form in which the burden is imposed cannot vary the substance.

Some have argued that the intent of the framers was to ban only those taxes on exports that are designed to raise revenues, and that, therefore, the proposed auction of export licenses is constitutional. This interpretation of the export clause is based on a misreading of the events surrounding the adoption of the clause at the Constitutional Convention. At the Convention, the delegates voted down an amendment which would have banned only those export duties imposed "for the purpose of revenue."[13] Moreover, the delegates rejected an amendment that would have permitted export taxes if approved by a two-thirds majority in both chambers of Congress.[14] In rejecting both these amendments, the delegates to the Constitutional Convention were expressing their view that the export trade of the United States should not be burdened in any way by government taxation. Accordingly, the imposition of export fees or the auction of export licenses would seem to be clearly unconstitutional, and permissible only if the Constitution were first amended to permit export taxes.

An auction system would be both unfair to established exporters and would cause serious market disruptions. While certainly not without some drawbacks, the historical pattern is probably the fairest allocation system now known since it assures that existing exporters will be permitted to continue their normal trade relationships. The only problems with this approach come with respect to newcomers to the market or with the historical period chosen. These two problems can easily be handled by setting aside a portion of the total export quota for hardship situations.

Moreover, an auction might permit a highly organized trading system operated by foreign nationals to corner the U.S. export market in a particular commodity to the exclusion of the U.S. firms and to the detriment of U.S. foreign policy interests generally.

APPENDIX 8

MATERIALS DETAILING THE ARAB BOYCOTT OF ISRAEL, SUBMITTED BY DAVID BRODY AND SEYMOUR GRAUBARD, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

The Principles of the Arab Boycott of ISRAEL

FOUNDATION

1. The Arab Boycott is a defensive measure meant for the protection of the security and economy of the Arab states against an aggressive means and economy which is Israel.

2. The Arab Boycott is not based on either racial or religious discrimination as it is not applied except against persons who contribute to the promotion of Israeli economy or war effort by committing any of the practices outlined hereunder, notwithstanding their nationalities or religion. There is no better evidence to this attitude than the fact that the Arab states trade with companies owned by Jews but who are not Zionists or of the subjects of Israel. While, on the other hand, they have banned transactions with certain companies in Turkey or Cyprus which are owned by Moslems.

3. The Arab Boycott takes the human factor into consideration. For example, it does not affect, as it will turn out from the following, foreign ships carrying foodstuff or other similar articles to the inhabitants of occupied Palestine but only affect those ships carrying such articles to the armed forces.

4. The Arab Boycott looks for maintaining the interests of foreign companies. It is, for example, not applicable against companies which have pure normal trade dealings with Israel such as selling to it their completely-finished-outside-Israel products, except those which are helpful to the war effort of Israel such as arms, military aircraft and ammunition.

This in addition to the fact that transactions are not banned with any company breaching the rules in effect in the Arab states before giving such companies ample chance to accord their status and cease from carrying on the contravening actions with Israel. This is done by contacting the company so that to inquire about the nature of its relations with Israel and whether they constitute a violation or not. If the company declines to answer the inquiry addressed to it so that to determine the nature of its relations with Israel or to accord its status, transactions with such company, under the rules in effect in the Arab states, are banned whatever its relations with the Arab countries or its products may be.

Therefore, the declination of any company to answer the questions raised by the Arab authorities will only damage its own interests, while Arab interests would not be damaged since the products of such company could be substituted by products of other companies either in the same country or in other countries.

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THE CASES IN WHICH TRANSACTIONS WITH FOREIGN COMPANIES ARE BANNED IF THEY FAIL TO LIQUIDATE THEIR VIOLATIONS.

1. Manufacturing and Trading Companies:

Transactions with foreign companies are banned in the following cases if such companies insist on their attitudes by carrying on such practices and not ceasing from performing them:

a) If they have main or branch factories in Israel.

b) If they have assembly plants in Israel. This also applies to foreign firms and companies whose agents assemble their products in Israel.

The ban will be applied too in the case of assembly if it is proved that a certain Israeli company has assembled, on commercial scale, a unit of a certain product or goods from parts the majority of which is produced by certain foreign company or any of its branches/subsidiaries, unless such foreign company establishes its non-responsibility for such assembly and takes legal proceedings against the Israeli company which committed the assembly. This provision is applied if the parts used in producing the unit constitute more than 50% of the parts of such unit or if the engine of the unit is of the foreign company's production.

c) If they have in Israel, either general agencies or main offices for their Middle Eastern operations.

d) If they give the right of using their names or manufacturing licenses to Israeli companies.

e) If they hold shares in Israeli companies or factories.

f) If they render consultative services and technical experience to Israeli factories.

g) ~~If they, or their Directors or Managers, are members of joint foreign-Israeli chambers of commerce.~~

h) If they act as agents for Israeli companies or principal importers of Israeli products, outside Israel.

i) If they take part in searching for the natural resources of Israel such as petroleum drilling.

j) If they decline to answer the questionnaire addressed by the Arab authorities requiring them the explanation of the nature of their relations with Israel and whether they form a violation or not.

k) If they are serving notice on them and granting them a grace period not less than six months to substitute the products of blacklisted companies with products of other companies which are not violating the boycott principles, use in their own products articles or machines produced by a blacklisted company. During the period of notice, the products of such companies may be allowed entry if their position is clear in regard to other boycott regulations and provided that the parts produced by the blacklisted company and used in the company's products are not exceeding 35% of the total cost of the finished unit.

The ban imposed on a certain company is applied against all of its parent and subsidiary companies.

It is permissible however, to waive for once only, the ban imposed on a blacklisted company if it arranges for the liquidation of the violation of the rules in effect in the Arab countries and present documentation to this effect.

2. Foreign Navigation Companies:

1. Foreign ships, tankers and other maritime transportation means shall be blacklisted if they committed any of the following acts:

a) If it was proven that they called on an Arab port and an Israeli port in the same round trip; Universal tourism ships being excluded.

Shall be considered tourism ships those which carry tourists only and not ordinary passengers and which do not load or offload goods from and to the countries they call on. Companies which own or charter these ships shall inform the competent Regional Boycott Office of the routes and timetables of those ships in due course.

b) If they transport materials or articles helpful to the war effort of occupied Palestine even if they do not call on an Arab port and an Israeli port on the same round trip.

c) If they are chartered to Israeli companies or institutions.

d) If they transport industrial, commercial or agricultural Israeli products.

e) If they transport Jewish immigrants to occupied Palestine.

f) If they refrain, within the maximum period of 15 days notice, from presenting the manifests of shipments they offloaded at Israeli ports on

a previous trip.

2. A ship or tanker may be lifted from the blacklist if its owners undertake to refrain from violating the above rules again. This is not applicable to ships flying the Israeli flag or previously enjoying the Israeli nationality.

3. Transactions shall be banned with any foreign navigation company if it is established that such company has chartered any ship or tanker owned or charted by it to any Israeli firm, company or institution with the intention of creating an international crisis involving any Arab country. This ban entails the blacklisting of all vessels owned or chartered by such company.

3. Foreign Banks Dealing with Israel:

Transactions with foreign banks are banned if they commit any of the following acts:

a) If they give loans or subsidies to Israeli public or private firms and/or institutions which may help them in carrying out major military, industrial or agricultural projects.

b) If they take active part in distributing and/or promoting Israeli loan bonds.

c) If they establish firms or companies in Israel.

d) If they subscribe to the establishment of firms or companies in which Israeli capitals are subscribing, either inside or outside Israel.

4. Foreign Motion Pictures' Companies and Actors:

1. Movie and Television Films:

The projection of foreign films in whatever copy or language, is prohibited in all Arab countries in the following cases:

a) If the film, in story, script and contents, is intended to distort Arab past or present history in regard to religion or nationality.

b) If the film, in story, script and contents, is intended for making propaganda to Israel or Zionism or seeking favourable inclinations to them.

c) If the film is featuring actors enjoying Israeli nationality.

d) If the film is wholly or partially photographed in Israel or if it is of Israeli-foreign production.

e) If the film features foreign actors or actresses whose Zionist tendencies are established.

2. Foreign Motion Pictures' and Television Companies:

Transactions shall be banned with motion pictures' and television companies the Zionist tendencies of which or their acting for the interests of Israel are proven. This provision is applicable in the following cases:

a) If they, in spite of communicating them to make them aware of the measures their actions entail, again produce films intended in story, script and contents, to distort past or present Arab history in regard to religion or nationality.

b) If they, in spite of communicating them to make them aware of the measures their actions entail, repeat their donations to Israel, in their capacity as artificial persons, in a way indicating their bias and acting for the interests of Israel.

c) If they, in spite of communicating them to make them aware of the measures their actions entail, again produce films intended in story, script and contents, for making propaganda to Israel or for seeking favourable inclinations to it.

d) If they, in spite of communicating them to make them aware of the measures their actions entail, again produce joint foreign-Israeli films and refuse, without reasonable motives, the production of joint foreign-Arab similar films.

e) If they establish in partnership with Israeli capitals or subscribe with Israeli capitals to the establishment of firms or companies inside or outside Israel; if they establish manufacturing branches in Israel; or if they render consultative services and technical assistance to Israeli firms or companies.

5. Foreign Insurance Companies:

Transactions shall be banned with foreign insurance companies the subscription of which in industrial, commercial or other firms and companies in occupied Palestine is proven, thus they exceed their normal activities.

6. Foreign Agencies of Arab Companies:

Firms and companies enjoying the nationality of any Arab country may not give their general agencies to aviation and shipping foreign companies or firms if it is proven that the latter are general agents of Israeli firms or companies abroad. This provision is applied in case the local laws of the country concerned do not prohibit such actions.

7. Foreign Shipbuilding Companies:

Transactions shall be banned with foreign shipbuilding companies which, after communicating with them to make them aware of the fact that building ships for Israel by them promote the economy

and the war effort of Israel, again build ships or tankers for Israel.

FOREIGN COMPANIES THE VIOLATION OF WHICH IS CONFINED TO THE ACQUIRING OF A LICENCE TO MANUFACTURE CERTAIN PRODUCTS OF BLACKLISTED OTHER FOREIGN COMPANIES:

Foreign companies, the violation of which is limited to their acquiring the right to manufacture certain products of other foreign companies which are included in the blacklist, are excluded from applying the ban against all of their products; The ban shall be applied only against those products similar to the products of the blacklisted company which granted the licente for manufacture. This procedure shall be applied with no need to serve notice on the company concerned but provided, however, that the company is informed of the reasons for prohibiting the importation of its products similar to those of the company which granted the licence.

The Law of the UNITED ARAB EMIRATES
and of ABU DHABI

In the name of God the Compassionate the Merciful

UNITED ARAB EMIRATES

FEDERAL LAW NO. 15 for 1972
Relating to the Boycott of Israel.

We, Zayid bin Sultan Al Nhayyan, President of the United Arab Emirates (U.A.E.), having regard to the Provisional Constitution of the United Arab Emirates, and in the light of submissions made to us by the Minister of State for Financial and Economic Affairs and after approval by the Council of Ministers and the Federal National Council and ratification by the Supreme Council of the Federation, have promulgated the following Law:

Article 1.

Any natural or juristic person shall be prohibited from entering, in person or through the intermediations of others, into agreement with entities or persons residing in Israel, affiliated thereto by their nationality or working for its account or interest wheresoever they shall be resident when the subject-matter of the agreement consists of commercial dealings, financial transactions or any other dealing of whatever nature.

Companies and establishments, irrespective of its nationality, which have interest, branches or general agencies in Israel, shall be deemed to be entities or persons with whom dealings shall be prohibited in accordance with the preceding paragraph as may be decided by the Controller of Boycott Affairs pursuant to recommendations made by the Conference of Liaison Officers.

Article 2.

Admission, exchange or possession of all kinds of Israeli goods, commodities or products as well as any trading therewith

in any manner shall be prohibited. Said prohibition shall apply to financial papers and other Israeli movable items in the United Arab Emirates. Goods or commodities that are manufactured in Israel or that contain any component, irrespect of its ratio, that is of Israeli manufacture of whatever kind shall be deemed Israeli whether imported directly or indirectly from Israel.

Commodities and products that are re-exported from Israel or that are manufactured outside Israel with the intent of being exported for the account of Israel or of any person or entity provided for in Article 1 shall be deemed Israeli commodities.

Article 3.

Any import shall, in cases specified by the Controller of Boycott Affairs, submit a Certificate of Origin containing the following details, namely:

1. The country in which the commodity was manufactured.
2. That no material produced in Israel, irrespective of its ratio, has been included in the manufacture of the commodity.

Article 4.

Customs and Ports Authorities in the Member Emirates of the Federation shall take adequate measures to ban export of goods as may be specified by the Controller of Boycott Affairs to such foreign countries which, it has been established, will re-export the same to Israel.

Article 5.

The provisions of Articles 2, 3 and 4 shall apply to goods that are admitted to zones deemed to be free-zones in the U.A.E. or that are exported to said zones.

Said provisions shall also be applicable to goods landed on U.A.E. territory or passes in transit across said territory

that may be assigned to Israel or to any person or entity residing therein.

Article 6.

Any person who contravenes any of the provisions of Articles 1, 2 and 3 shall be subject to imprisonment for a term not less than three years and not exceeding ten years.

In addition to a sentence for imprisonment, a fine not exceeding seven thousand Bahraini Dinars may be imposed. In the event that the person convicted of any of the above felonies is a juristic person, the sentence shall be executed on whomever, commited the same and is affiliated to said body or against the individual responsible for the offence having been committed.

In all cases, there shall be issued an order to confiscate the impounded material and seizure of the means of transport used in commiting the offence in cases where the foregoing shall have been with the knowledge of their owners.

Article 7.

There shall be excepted from penalty- other than confiscation- any one of several felons if there shall be more than one who passes information to the authorities concerned about co-felons and such information leads to the discovery of the crime.

Article 8.

Summaries of all convictions passed in relation to crimes commited in contrary to the provisions hereof shall be published in block letters at the expense of the person so convicted and displayed in the front part of his place of business for three months.

Any person removing, concealing in any manner or destroying said summaries shall be subject for imprisonment for a term not exceeding three months and a fine not exceeding one hundred Bahrain Dinars or both said penalties.

Article 9.

Any person commiting of the crimes provided for in this Law shall be tried before a competent Court in the Emirate where the crime shall have been commited. In the event that the crime is commited within the boundaries of the permanent Federal Capital, the Federal Court of First Instance shall have jurisdiction.

Article 10.

Any person, whether he may be an officer of the Federal Government, the Emirates or others who seize items that are the subject of crimes provided for in this Law or facilitates the seizure thereof shall receive in an administrative manner a reward amounting to 20% of the items in respect of which a confiscation order has been made, and in the event that there are several beneficiaries the reward shall be distributed amongst them in proportion to their individual efforts.

Article 11.

Officials entrusted by a Minsterial Order issued by the Minister of State for Financial Affairs shall prosecute the crimes commited contrary to the provisions contained in this Law or decisions made for the implementation thereof. In so doing said officials shall have powers of the public prosecution.

Article 12.

The Office for the Boycott of Israel shall undertake coordination of plans and measures necessary for the enforcement of this Law. There shall be a director appointed for said office by a Federal Decree who shall act as a Liaison Officer with the Central Office.

Until the establishment of the permanent Federal capital the town of Abu Dhabi shall be the temporary location of the Office which shall have branch offices in all or some of the Emirates Members of the Federation.

The organization and the specification of the functions and powers of the Departments comprising the office and its branches shall be made by an order issued by the Minister of State for Financial and Economic Affairs.

Article 13.

Any Laws, Decrees and decisions conflicting with the provisions of this Law are hereby revoked. The Minister for Financial and Economic Affairs shall issue the necessary orders for the implementation hereof.

Article 14.

Ministers shall, each within his competence, implement the provisions of this Law which shall come into effect from the date of its publication in the Official Gazette.

Zayid bin Sultan Al Nhayyah,
President of the
United Arab Emirates

Issued at the Palace of Presidency in Abu Dhabi,
on 25th Rajab, 1392 H.,
corresponding to 3rd September, 1972 A.D.

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Hatim S Zu'bi,
POB 2137, Abu Dhabi.

This is to certify that the above translation is a true translation of the original text of the Law as published in the Official Gazette, No. VI, Year II, United Arab Emirates, issued in September, 1972.

Attorney & Legal Consultant
HATIM S. ZU'BI
LL.B (Hons), London of Lincoln's Inn - Barrister-at-law
Abu Dhabi, Bahrain, Amman.

LAW FOR THE BOYCOTT OF ISRAEL FOR 1969
(Law No. 12 for 1969)
Signed on 30th March, 1969

We, Zayid bin Sultan Al Nhayyan,

hereby decree as follows:

Name of Law and Effective Date.

1. This Law shall be named "Law for the Boycott of Israel for 1969" and shall come into effect from the date of signing hereof.

Definitions.

2. In this Law:

a. the term "Central Office" shall mean the Boycott of Israel Bureau of the League of Arab States.

b. the term "Conference of Liaison Officers" shall mean the conference held by persons in charge of the Boycott of Israel Offices in the Arab States as decided by the Central Office.

Establishment of the Boycott of Israel Office.

3. a. There shall be established in the territory an office attached to the Diwan of the Ruler which shall be known as "The Boycott of Israel Office," hereinafter referred to as the Office.

b. The Office shall together with the Central Office undertake co-ordination of plans and arrangements for implementation of the provisions of this Law.

Appointment of a Director for the Office.

4. The Director of the Office shall be appointed by a Decree issued by the Rule and he shall be deemed to be the liaison officer with the Central Office.

Dealings with Israel.

5. a. No person may under any circumstances enter into an agreement with any entity or person residing in Israel or affiliated thereto by nationality or working for the

account or interests of Israel.

b. National or foreign companies or establishments who hold interests, branches or general agencies in Israel, or whose status conflict with established Boycott Regulations and Principles shall be deemed to be bodies governed by the provisions of the preceding sub-clause if the Office decided that it shall be so included. The Office may not however, make such decisions without recommendation to that effect being made by the Conference of Liaison Officers.

Admission of Israeli Commodities into the Territory.

6. (1) Israeli banknotes, goods, commodities, products or any other movable items shall not be admitted into the Territory nor shall they be exchanged or traded in within the Territory.

(2) For the purposes of the preceding sub-clause, any commodity or goods shall be deemed Israeli if it is:

a. Manufactured or contains a part that has been manufactured in Israel;

b. Imported from Israel and thereafter re-exported;

c. Made outside Israel with the intent to export the same for the account of Israel or any person specified in Article 5 hereof.

Submission of Certificate of Origin.

7. Every person who imports goods into the region shall, in such cases as may be specified by the Office, submit a certificate known as "Certificate of Origin" stating the country in which the commodity or goods was manufactured and certifying that in the manufacture thereof no Israeli product was used as a component.

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Goods admitted to the Free Zone or in transit within the Territory.

8. Without prejudice to any international agreement concerning any goods, commodities, products or banknotes to which the Territory is a party of, the provisions of Articles 5, 6 and 7 hereof shall apply to all goods, commodities & products that may be admitted to the Free Zone or transit within the Territory.

Dealings in Israeli Commodities.

9. (1) Goods, commodities or products in Article 6 hereof may not be displayed nor possessed, sold or purchased.

(2) For the purposes of the preceding sub-clause, exchange or donation shall be deemed to be sale and purchase.

Export of Commodities to Countries Exporting to Israel.

10. The Office shall take necessary measures to bin export or re-export of any commodities as may be specified by the Conference of Liaison Officers to any foreign country which, it is established, will re-export the same to Israel.

11. (1) Any person who contravenes the provisions of this Law shall be liable to imprisonment for a maximum period of ten years or a fine not exceeding seven thousand Dinars or both penalties.

(2) For the purposes of the preceding sub-clause, and in respect of juristic persons, the person who assumed the business in the name of the juristic person shall be deemed to have contravened the provisions of this Law.

Confiscation of Means of Transport and Impounded Items.

12. Every means of transport that has been used in movement of any goods, commodity or movable items provided for herein, shall be confiscated together with all goods, commodities or movable items provided for herein that are seized thereon.

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Exemption from Penalty.

13. Notwithstanding the provisions of Article 11 of this Law, any partner who divulges information to the authorities concerned resulting in discovery of a violation to the provisions of this Law shall not be subject to penalty.

Publication of Convictions.

14. Every conviction in respect of a contravention to the provisions of this Law shall be written in conspicuous letters and displayed in the show window of the place of business of the convicted person for a period of three months.

Removal or Tearing up of Displayed Conviction Order.

15. Any person who removes or tears any conviction order displayed in accordance with the provisions of the preceding Article, or defaces or erases the same in a manner that makes any part thereof illegible shall be deemed to have commited an offence and shall be subject to imprisonment for a period not exceeding three months or a fine not exceeding one hundred Dinars or both penalties.

Rewards to Persons Assisting in the enforcement of the Law.

16. (1) Every person who seizes any item provided for in this Law shall be granted a reward of 20% of the value of seized items.

(2) Rewards awarded in accordance with the provisions of the preceding sub-clause shall be divided among beneficiaries, if more than one, in proportion to their efforts.

(3) Nothing in this Article shall except Government officials from receiving such rewards.

Institution of Proceedings.

17. The Office shall undertake the institution of proceedings filed in accordance with this Law.

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Assistance to the Office.

18. Each Department shall within its competence enforce the provisions of this law and co-operate with the Office in the performance of its functions.

[redacted]

Translated by Legal Translation Service,

Law Office

Hatim S. Zu'bi

P. O. Box 2137

ABU DHABI.

This is to certify that the above translation is a true translation of the original text of the law as published in the Official Gazette No. I year II Emirate of Abu Dhabi, issued on Jan-Mar., 1969.

Attorney & Legal Consultant
HATIM S. ZU'BI
LL.B. (Hons), London of Lincoln' Inn - Barrister-at-law
Abu Dhabi, Bahrain, Amman.

The Law of EGYPT

(Department of State translation)

LSNO. 52029 - B

PALESTINIAN CONFLICT

1955 Boycott of Israel

October 19, 1955. Law No. 506 ordering the boycott of Israel (JO [Official Gazette] No. 81[2])

In view of the Council of the Arab League's decision of December 11, 1954;

The Council of State having been heard:

1. It shall be illegal for any natural or judicial person to conclude, directly or through an intermediary, any agreement whatsoever with agencies or persons residing in Israel, of Israeli nationality, or working on behalf of Israel. It shall also be illegal for them to deal with local or foreign companies or enterprises having interests, subsidiaries, or agencies in Israel. The companies and enterprises referred to above shall be specified by a decision of the Council of Ministers or of the authority which it may delegate in accordance with the recommendations of the Conference of Liaison Officers.

2. Whether they come directly or indirectly from Israel, the admittance, exchange, or trade of goods, articles, and products of any kind, as well as of securities and other stocks and shares of Israel, shall be illegal in the Republic of Egypt. Goods and articles manufactured in Israel and those whose manufacture or preparation involves any part of Israeli products shall be considered products of Israel. Goods and articles re-exported from Israel, as well as those manufactured outside the territory of Israel but with a view to their exportation on its behalf or on behalf of a person or agency referred to in Article 1, shall also be considered products of Israel.

3. Upon application for an import permit or within the time established by the competent authority, importers may be required to submit a certificate of origin in the cases specified by the authority. The certificate shall state the place of origin of the imported products and affirm that no Israeli product was used in their manufacture or preparation. Imported goods shall be authorized to transit the customs zone only upon submission at every request of the certificate referred to in the preceding paragraph, subject to administrative confiscation upon failure to produce the certificate within the required time.

4. It shall be illegal to export articles specified by the Conference of Liaison Officers to countries which re-export them to Israel, if applicable.

5. Articles 2, 3, and 4 shall apply to products admitted into the free zones of the Republic of Egypt or which are exported therefrom. They shall also apply to products which enter the territory of the Republic of Egypt or transit it on behalf of Israel or of a person or agency referred to in Article 1, without prejudice to the international conventions signed by Egypt.

6. It shall be illegal to display, sell, purchase, exchange, give, or hold the goods, articles, or products referred to in Article 2.

7. Any violation of the preceding articles, with the exception of Article 3, shall be punished by hard labor for a period not exceeding ten years to which may be added a fine not exceeding LE 5,000. If the offender is a juristic person, the malefactors associated with it shall be punished by the said penalties. In all cases, the judgment shall order the confiscation of the articles seized and the means used for their transport, if their owners had knowledge of the violation at the time of transport.

8. Offenders who denounce their accomplices for one of the violations mentioned in the preceding articles, if the denunciation effectively results in the discovery of the violation, shall be exempt from the penalties set forth in Article 7, save confiscation.

9. An abstract of the conviction for violations of this law shall be published in large type in a daily newspaper at the convicted person's expense and posted for three months on the front of his business establishment, factory, warehouse, or other place of work. Any person who removes, defaces, or damages the said notices shall be liable to imprisonment not exceeding three months or to a fine not exceeding LE 20, or both.

10. A cash reward shall be paid to any person, even a State official, who seizes or contributes to the seizure of the articles condemned by this law, the amount of which shall be fixed at 20 percent of the value of the confiscated articles. If several persons cooperate, the reward shall be distributed in proportion to their efforts.

11. The officials appointed by the arrêté of the Minister of the Interior shall have the authority of judicial police officers in establishing any violation of this law or the arrêté issued for its enforcement.

12. This law shall apply to the violations provided for therein to the exclusion of any other provision.

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The Law of IRAQ

The Boycott of Israel

1. Law No. 34 of 1956 ratifying the Unified Law on the Boycott of Israel Regulations.

2. A bulletin on the position of the Arab states with respect to conferences to which Israel is invited.

Law No. 34 of 1956 Ratifying the Unified Law On the Boycott of Israel Regulations

After perusing Article 23 of the constitutional statutes, and by virtue of the rights delegated to us by consent of the Parliament, we have ratified the following Law:

Article 1. His Majesty the King may take the measures necessary to ratify the Unified Law on the Boycott of Israel Regulations that was approved by the Council of the League of Arab States in its meeting held in Cairo on December 11, 1954, in its twenty-second session.

Article 2. This Law shall come into force as of the date of its publication in the Official Gazette.

Article 3. It is the duty of the Ministers of the State to implement this Law.

Done in Baghdad on the 15th day of the month of Shawwal in the year 1375, corresponding to the 26th day of the month of May of the year 1956.

(Published in the Official Gazette, No. 3802 of June 6, 1956.)

Draft of the Unified Law on the Boycott of Israel Regulations

(As drawn up by the Council of the League of Arab States in its meeting of December 11, 1954, in its twenty-second session.)

Article 1. All persons, whether natural or legal, are prohibited from making, whether directly or through an intermediary, any covenant with entities or persons resident in Israel or belonging to it by their nationality or who are working for its account or who are acting in their [tr. note: sic -- probably should be "its"] interest, wherever they may reside. This shall apply whether the object of the covenant be commercial transactions, financial operations, or any other dealing of whatever nature.

Domestic and foreign companies and institutions that have interests or branches [tr. note: can also mean "subsidiaries"] or general agencies in Israel shall be considered as being in the category of entities and persons with which dealing is prohibited in accordance with the preceding paragraph, as determined by the Council of Ministers or the authority empowered by it to do so, in accordance with the recommendations of the Conference of Liaison Officers.

Article 2. Prohibited is the entry or exchange of or trading in all types of Israeli goods, merchandise, and products, as well as financial paper and other kinds of negotiable instruments, in [Iraq]. Considered as Israeli are goods and merchandise made in Israel or into the manufacture of which there has entered a part consisting of any percentage whatsoever of products of Israel of any kind, and whether such goods and merchandise have arrived directly or indirectly from Israel.

Considered as being in the category of Israeli goods are merchandise and products that have been transshipped from Israel or made outisde of Israel with the object of exporting them for its account or for the account of one of the persons or entities indicated in Article 1.

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Article 3. The importer, in cases to be determined by the competent authorities, must present a certificate of origin in which the following are clearly stated:

A. The country in which the merchandise was made.

B. That there has not entered into the manufacture of the merchandise any percentage whatever of material produced in Israel.

Article 4. It is the duty of the competent authorities to take the measures necessary to prevent merchandise designated by the Conference of Liaison Officers from being exported to foreign countries that have been shown by the Conference to re-export such merchandise to Israel.

Article 5. The provisions found in Articles 2, 3, and 4 shall apply to merchandise entering free zones in [Iraq], or exported from such zones.

These provisions shall apply also to merchandise that is landed on the territory of [Iraq] or that transits its territory and that is consigned to Israel or to one of the persons or entities resident in Israel. However, this provision shall not prejudice the provisions of international agreements to which one of these states may be a party.

Article 6. It is prohibited to display [tr. note: or "offer for sale"] the goods, merchandise, and products referred to in Article 2 or to sell, purchase, or possess them. In carryin out the provisions of this Article, any transaction that takes place by means of donation or barter shall be considered as being in the category of sale and purchase.

Article 7. Any person who contravenes the provisions of Articles 1, 2, and 3 shall be punished with a term of hard labor of not less than three years or more than ten years.

To a sentence of hard labor may be joined a fine of not more than five thousand Egyptian pounds (or the equivalent

thereof). If the delinquent person in one of the preceding offences is a legal person, the penalty shall be enforced against the person or persons who commited the offence and who belonged to the legal person.

In all cases the effects distrained shall be ordered to be confiscated on behalf of the government, as shall be the means of transport used in the commission of the offence, if the owners of such transport were aware that the offence was being commited.

Article 8. Exemption from the penalties -- with the exception of that of confiscation -- provided for in the preceding article shall be granted to that delinquent party or those delinquent parties, if there are more than one, who undertake(s) to inform the government of those taking part in one of the aforementioned offences, and if such information in effect leads to the discovery of the offence.

Article 9. Resumes of all judgments of culpability that have been handed down in offences commited in contravention of the provisions of this Law shall for a period of three months and at the expense of the person found delinquent, be displayed on the front of the delinquent's commercial establishment, factory, store, or other place in which he conducts operations.

The removal, concealment by any means, or destruction of such resumes shall be punished by imprisonment for a period of not more than three months and by a fine of not more than twenty Egyptian pounts (or the equivalent thereof) or by one of these two penalties.

Article 10. Monetary rewards shall be paid through administrative channels to any person, whether or not he be a government employee, who seizes the effects that are the subject of the offence specified in this Law or facilitates their seizure. The rewards shall consist of 20 percent of the value of the goods

ordered to be confiscated, unless local laws provide for rewards in excess of this percentage. In the event that the rewards are due to more than one person, the rewards shall be distributed among them, to each person according to the effort he has expended.

Article 11. Offenses occurring in contravention of the provisions of this Law or of the regulations implementing it shall be substantiated by officers charged with this task by the State and who possess legal authority and powers.

Article 12. Laws, decrees, and regulations that conflict with the provisions of this Law shall be abrogated.

(Draft Resolution)

The Council approves the Unified Law on the Boycott of Israel Regulations in its accompanying form and recommends to the member states that they enact it into law.

(Draft Recommendation)

The Council of the [League of Arab] States recommends that effective measures be taken to control the movement of maritime, air, and land transport to prevent entities and persons from dealing with any of the aforementioned means of transport that have been blacklisted and to increase the severity of the penalties against violators.

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The Law of Jordan
(Department of State Translation)

UNIFIED LAW OF THE BOYCOTT OF ISRAEL

LAW NO. 10 OF 1958

ARTICLE I:

A. This Law is titled The Unified Law of the Boycott of Israel of the Year 1958, and will become effective as of the date of publication in the Official Gazette.

B. This Law supercedes the Law of Trading with Israel, No. 66 of 1953, and the Amendment, The Law of Prevention of Trade with Israel No. 5 of 1956.

ARTICLE II:

Any natural or legal person is hereby prohibited from concluding any agreements or transactions, either directly or indirectly, with any person or organization residing in Israel, or affiliated with Israel through citizenship, or working for Israel, either directly or indirectly, regardless of place or business or residence. Foreign company with branches, interests, or general agencies located in Israel, are considered persons or organizations herein banned from concluding or transacting agreements of any kind.

ARTICLE III:

A. All Israeli goods, commodities or products are hereby prohibited entry into Jordan.

B. All goods, commodities and products imported via a Jordanian port, or consigned to a Jordanian citizen or resident of Jordan, are hereby prohibited export to Israel.

C. All goods, commodities and products are considered Israeli if they are manufactured or produced in Israel, or if such goods contain any Israeli produced material, or if such goods originate in Israel directly or indirectly.

D. All goods, commodities and products exported to Israel or consigned to any person or organization described in Article II, are considered Israeli products, even if such products were manufactured or produced outside of Israel.

ARTICLE IV: All persons, companies or organizations desiring to export goods into Jordan must submit, whenever required by Jordanian Authorities, a Certificate of Origin, stating the following information:

1. The country in which the goods were manufactured or produced.

2. A statement that the goods intended for export contain no Israeli goods or materials, regardless of proportion.

ARTICLE V: All appropriate authorities are hereby directed to take all necessary measures to prevent the export of commodities and goods specified by the Arab Liaison Officers Conference to any foreign country if it is proved that such goods are intended for re-export to Israel.

ARTICLE VI: The provisions of Article II, III, and IV apply to all goods, commodities and products imported to or exported from any free zone in Jordan, or which land in, or transit, Jordan, if such goods are intended for any person or organization described in Article II, provided that such prohibitions do not prescribe or disturb any provisions of any international agreements in effect at the time to which any Arab country is a party.

ARTICLE VII: No goods, commodities or products described in Article III of this Law may be owned, purchased, or sold. Any agreement or transaction involving such goods, commodities or products concluded, whether in the form of donation or trade, shall be considered as a transaction or agreement prohibited by this Law.

ARTICLE VIII: A. Violaters of Articles II, III or IV of this Law shall be sentenced to imprisonment at hard labor for a period of not less than three (3) nor more than ten (10) years. The court may in addition to such imprisonment, impose a fine not in excess of five thousand (5,000) Jordan Dinars.

B. If such violator is a natural person, he shall be punished by both fine and temporary imprisonment at hard labor.

C. In all cases of goods seized under the provisions of this Law, such goods shall be confiscated by the proper authorities, together with the means of transport used to convey such confiscated goods, if it can be proved that the owners of such means of transport were aware of the violation.

ARTICLE IX: Any person convicted under the provisions of this Law subsequently gives information to the authorities leading to the discovery of any other act prohibited under this Law shall be exempted from all sentences and penalties described in Article VIII.

ARTICLE X: All persons or companies convicted under the provisions of this Law shall have their name, fact of conviction, crime, and sentence publicly displayed in a prominent place in their factory, store, or place of business, at their expense. Any person who removes, covers, or destroys such display without proper authority shall be sentenced by a magistrate to a period of not more than three (3) months imprisonment, or a fine of twenty (20) Jordan Dinars, or both.

ARTICLE XI: Government officials or any other individual or individuals who seize or assist in the seizure of goods standing in violation of the provisions of this Law shall be financially rewarded, such reward equalling 20% of the value of the seized goods.

ARTICLE XII: All Government officials who properly prosecute crimes within the country are hereby directed to prosecute violations of the provisions of this Law.

ARTICLE XIII: All prior laws, regulations, decisions and amendments whose provisions in part or whole, conflict with the provisions of this Law are hereby cancelled.

ARTICLE XIV: The Prime Minister, The Minister of Finance, Justice and Interior are hereby empowered to carry out the provisions of this Law.

P R E A M B L E

We, Abdallah al Salem al Sabah
Ameer of Kuwait
After perusal of the Constitution
And of Ameeri Decree promulgated 26 May 1957
regarding the boycott of Israeli merchandise
The National Assembly having approved
the Ordinance the text of which follows
Hereby sanction and promulgate it.

Ameer of Kuwait
Abdallah al Salem al Sabah

Promulgated 8 Muharram 1384 AH
Corresponding to 20 May 1964 AD

O R D I N A N C E No. 21/1964

concerning the CONSOLIDATED BOYCOTT of ISRAEL LAW

as published in

Official Gazette No. 479

of 31 May 1964

translated by

Ernest Abcarius

DAR UTTARJAMA
Awqaf Bldg Flr 2 Apt 9
Fahd al Salem Avenue
P.O. Box 2998 Kuwait

Article 1

It shall be prohibited for every natural or legal person to contract an agreement personally or through an intermediary with organizations or persons residing in Israel or (with persons) connected by nationality with Israel or acting on Israel's behalf or in Israel's interests wherever they may be domiciled where the purport of the agreement is (to carry out) commercial transactions or financial operations or any other deal of whatsoever nature.

Shall be deemed falling within the pale of organizations and persons proscribed from being dealt with in conformity with the preceding paragraph firms and establishments of whatever nationality which have interests or branches or general agencies in Israel as (to be) decided by the Supervisor of Boycott Affairs in accordance with the recommendations of the Liaison Officers Conference.

Article 2

Shall be prohibited the entry or exchange or possession of Israeli merchandise, goods and products of all kinds and shall be prohibited as well trading therewith in any manner. The prohibition shall be applicable to stocks and shares and other movable Israeli valuables in the State of Kuwait.

Shall be deemed Israeli the merchandise and goods manufactured in Israel or those in the manufacture of which there entered a fragment in whatever proportion of Israeli products of all kinds irrespective as to whether such merchandise and goods were imported directly or indirectly from Israel.

Shall be deemed falling within the pale of Israeli merchandise the goods and products reshipped from Israel or manufactured outside Israel with the intent of exporting such goods and products for Israel's account or for the account of any of the persons or organizations stipulated in Article 1.

Article 3

Where specified by the Supervisor of Boycott Affairs it shall be incumbent upon the importer to submit a Certificate of Origin elucidating therein the following data:

a. the country in which the goods were manufactured.

b. that no material from Israeli products in whatever proportion entered into the manufacture of the goods.

Article 4

The Customs and Ports Authorities shall take whatever measures necessary to prevent the export of goods to foreign countries which are proven to re-export such goods to Israel as determined by the Liaison Officers Conference.

Article 5

The provisions of Articles 2, 3 and 4 shall be applicable to goods entering or exported from areas deemed zones franches in the State of Kuwait.

Such provisions shall be applicable as well to goods unloaded in the territories of the State of Kuwait or transiting therethrough which are consigned to Israel or to a person or organization domiciled therein.

Article 6

Shall be punishable by temporary forced labour for a period of not less than three years but not exceeding ten years any one who violates the provisions of Articles 1, 2 and 3.

Together with the sentence in forced labour it shall be admissible to impose a fine not exceeding five thousand Kuwaiti Dinars. Where in any of the aforementioned offenses the offender is a legal person the penalty shall be imposed upon the (actual) perpetrator of the Offense from among those connected with the legal person or upon the person responsible for the commission thereof.

In all of the cases sentence shall be pronounced in confiscation of the things seized in favour of the Government and sentence shall be passed as well in confiscation of the means of transport used in perpetration of the offense where the owners thereof were aware of such use.

Article 7

Save for confiscation shall be exempted from punishment whosoever from among sundry offenders informs the Authorities of the accessories of any of the aforementioned offenses where such information actually leads to the discovery of the offense.

Article 8

Abstracts of all Judgments issuing in conviction of offenses committed in violation of the provisions of this Ordinance shall be proclaimed at the expense of the person sentenced in large letters on the facade of his business premises or of the factory or stores or other premises which he operates for a period of three months.

Whosoever removes or destroys such abstracts or conceals them in any manner shall be punishable by imprisonment for a period not exceeding three months and shall be penalized with a fine not exceeding one hundred Kuwaiti Dinars or (shall be inflicted) any one of those two penalties.

Article 9

Every person whether from among State functionaries or from among others who seize the things (forming the) subject (matter) of the offenses stipulated in the Ordinance or who facilitates seizure thereof shall receive through administrative channels a gratification at the rate of 20% of the value of the things adjudged in confiscation. Where several (persons) deserve the gratification such gratification shall be divided among them each in proportion to his endeavours.

Article 10

Substantiation of offenses occurring in violation of the provisions of this Ordinance or of the Orders in implementation thereof shall be carried out by the functionaries delegated for the purpose by Decree issuing from the Minister of Finance & Industry; and such functionaries shall in the application of the provisions of this Ordinance have the competence of Court Warrant Officers.

Article 11

The Ordinances, Decrees and Orders conflicting with the provisions of this Ordinance are hereby repealed.

Article 12

Each within his competence the Ministers shall put this Ordinance into execution which Ordinance shall come into force from the date of its publication in the Official Gazette.

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The Law of Saudi Arabia

Kingdom of Saudi Arabia

Office of the Prime Minister

Royal Decree No. 27 of 25/6/1382 [November 23, 1962]

With the help of God, may He be exalted.

We, Su'ūd bin 'Abd al-'Azīz Āl Su'ūd,

King of the Kingdom of Saudi Arabia,

After perusal of Article 19 of the Council of Ministers Statute promulgated by Royal Decree No. 38 on 22/10/1377 [May 12, 1958],

And on the basis of Council of Ministers' Resolution No. 312 of 21/6/1382 [November 19, 1962],

And on the basis of the presentation made to us by the Prime Minister,

Make the following decree:

1. We approve of the Code of Regulations for the Boycott of Israel in the form attached hereto.

2. The Prime Minister and the Ministers, each in his appropriate capacity, shall implement this Decree.

Kingdom of Saudi Arabia

Office of the Prime Minister

Decree No. 312 of 21/6/82 [November 19, 1962]

The Council of Ministers,

After perusing the Prime Minister's Office document No. 21304 of 7/11/81 [April 12, 1961] relating to the project for the directives of the Regional Office for the Boycott of Israel and to the project for the Unified Code of Regulations for the Boycott of Israel that it is proposed be promulgated in the Kingdom,

And on the basis of the Committee on Organizations' recommendation No. 40 of 9/3/1382 [August 10, 1962],

Resolves as follows:

1. To accept the Code of Regulations for the Boycott of Israel in the form attached hereto.

2. To draw up a draft Royal Decree on the matter, a copy of which is attached hereto.

3. To approve the directives of the Regional Office for the Boycott of Israel in the form attached hereto.

Done according to the above,

[Signed] His Highness the

Amīr Faysal

Prime Minister

CODE OF REGULATIONS FOR THE BOYCOTT OF ISRAEL

Article 1.

[A.] All persons, whether natural or legal, are prohibited from concluding, whether directly or through an intermediary, any covenant with any entities or persons resident in Israel, of Israeli nationality, or working for the account or Interests of Israel, wherever they may reside. This shall apply when the object of the covenant consists of commercial dealings, financial operations, or any other transaction of whatever nature.

B. Domestic and foreign companies having interests, branches, or general agencies in Israel shall be considered to be in the category of entities and persons with whom dealing is prohibited under the preceding paragraph, as determined by the Council of Ministers or by the authorities authorized by it to do so in accordance with the recommendations of the Conference of Liaison Officers.

Article 2.

A. The introduction or importation of Israeli goods, merchandise, and products of all kinds, or of financial documents or other negotiable instruments into the Kingdom is prohibited, as is exchanging them or trading in them.

B. Considered as Israel are goods and merchandise made in Israel or into the manufacture of which any percentage of Israeli products of any kind has entered, whether such goods and merchandise have arrived directly or indirectly from Israel.

C. Considered as being in the category of Israeli goods are merchandise and products transshipped from Israel or made outside of Israel with the object of exporting them either for the account of Israel or for that of any of the persons or entities stipulated in Article 1.

Article 3.

In cases determined by decision of the Minister of Commerce and Industry, the importer must provide a certificate of origin in which the following are clearly stated:

A. The country in which the merchandise was made.

B. That no material consisting of Israeli products in any percentage has entered into the manufacture of the merchandise.

Article 4.

The competent authorities, who are to be appointed by decision of the Minister of Commerce and Industry, have the duty to take the measures necessary to prevent goods designated by the Conference of Liaison Officers from being exported to foreign countries that have been shown to re-export them to Israel.

Article 5.

The provisions found in Articles 2, 3, and 4 apply to merchandise entering or exported from free zones in the Kingdom and to merchandise landed on or transiting the territory of the Kingdom with the object of exporting such merchandise either to Israel or to any persons or entities resident in Israel. These provisions shall be applied with due regard to the provisions of the international agreements to which the Kingdom of Saudi Arabia is a party.

Article 6.

It is forbidden to offer for sale, sell, purchase, or possess the goods, merchandise, and products referred to in Article 2. In the application of this present Article, any transaction carried out by donation or barter shall fall within the category of sale and purchase.

Article 7.

A. Any person contravening the provisions of Articles 1, 2, and 5 shall be punished by imprisonment for a period of not less than three years or more than ten years and with a fine of not less than five thousand or more than fifty thousand Saudi riyals.

B. Any person contravening the provisions of Article 3 or Article 6 shall be punished by imprisonment for a period of not less than three months or more than three years and by a fine of not less than five hundred or more than five thousand Saudi Arabian riyals, or by one of these two penalties.

C. If the delinquent party is one of the foregoing offenses is a legal person, the monetary penalty shall be enforced against that member or those members of the legal person who committed the offense.

D. In all cases, the effects distrained shall be ordered to be confiscated, as shall be the means of transport used in the commission of the offense, if the owners of the latter were aware that the offense was being committed

Article 8.

Exemption from the penalties provided for in Article 7 -- except for that of confiscation -- shall be granted to any of the delinquent parties, if there are more than one, who undertakes to inform the Government beforehand of the persons taking part in any of the aforementioned offenses, if such information in effect leads to the discovery of the offense.

Article 9.

A. A resume of any adjudgment of guilt under the provisions of this Code of Regulations shall be published in large type in the press at the expense of the person found

guilty. In addition, also at his expense, the same resume in large letters shall be affixed to the front of the commercial establishment, factory, store, or other place in which he operates, for a period of three months.

B. The removal, concealment in any way, or destruction of such resume shall be punished by imprisonment for a period of not more than three months and a fine of not more than two hundred Saudi riyals, or by one of these two penalties.

Article 10.

A reward shall be paid through administrative channels to any person, whether or not a Government employee, who seizes or facilitates the seizure of the effects involved in the offenses indicated in this Code of Regulations. The reward shall consist of 20 percent of the value of the effects ordered to be confiscated. In the event that the reward is due to more than one person, it shall be distributed among them, each receiving a share in proportion to the effort he has expended, as decided by the Minister of Commerce and Industry.

Article 11.

A. Officials appointed by the Ministers of Commerce and Industry, Finance, Defense and Aviation, and Interior shall investigate and substantiate the commission of the offenses specified in this Code of Regulations or in the decisions implementing it.

B. After offenses have been investigated and confirmed, the Ministry of Commerce and Industry shall be the authority competent to refer the cases to the body that is to try them.

Article 12.

1. The offenses specified in this Code of Regulations shall be referred to a body composed of:

1. The head of the Council on Inequities

2. A legal advisor from the Council on Inequities

3. A legal advisor from the Council of Ministers

2. The decisions of this body are to be considered as effective only after they have been approved by the Prime Minister.

Article 13.

Regulations and decisions conflicting with the provisions of this Code of Regulations are abrogated.

Article 14.

It is the duty of the Prime Minister and the Ministers, each in his appropriate capacity, to implement this Code of Regulations. The Code of Regulations is to be considered as coming into force as of the date of its publication.

RAFIDAIN BANK

Rashid Street Branch 107.

Cable Address
"RAFDBANK"

To Bank of America,
New York, U.S.A.

Baghdad 15th Oct,75.

confirmation of telegram dated 16th Oct,75.

IRREVOCABLE CREDIT No. 107/18343

Dear Sirs.

Please notify Messrs . Marley International Inc, 5800 Foxridge Drive Mission . Kansas, 66202, U.S.A. without adding your confirmation

that by order of Messrs. Hatim As-Sahab, Baghdad.

we open our Credit for an amount not exceeding total of $.4480/- (Say Usdollars four thousand four hundred eighty only.)

available against surrender of the following documents bearing our Credit Number

1. Receipt or Sight Draft
2. Certificate of Origin.
3. Beneficiary's original signed commercial invoices in eight copies issued in the name of the buyer indicating the merchandise, country of origin, country of manufacture, description, quantity, price, value, shipping marks, gross weight, net weight freight charges, trade discount, if any, and any other relevant information. For goods exported from China attestation by China Council for Promotion of International Trade or their Branches is acceptable.
4. Documents marked (x) below :
   - (X) Full set shipping company's clean on board Bill[s] of Lading marked "Freight prepaid" to order of Rafidain Bank or to order of shipper endorsed to RAFIDAIN BANK, notifying buyers and showing that the steamer is not scheduled to call at any Israeli port, or by any other evidence to that effect, and certifying that the carrying steamer is not included in the Iraqi Government Blacklist.
   - ( ) Airway Bills/Parcel Post Receipts showing parcels made out in the name of RAFIDAIN BANK and client's name marked "Freight Prepaid". Documents showing goods passing through Palestine are not acceptable. Parcels and Receipt should bear Credit Number and buyer's name and address
   - ( ) [illegible, struck out]
   - ( ) Railway Bills made out in the name of RAFIDAIN BANK marked "Freight Prepaid".
   - ( ) Shipping Company's consignment notes marked "Freight Prepaid" to order of RAFIDAIN BANK, or to order of consignors endorsed to RAFIDAIN BANK.

evidencing one lot shipments from U.S.A. to Basrah

of the following — U.S.A. origin goods

Cooling Towers and parts.
Imp.Licence No. ~~xxxx~~ 121 dated 8.9.75.

FOR CONFIRMATION PLEASE ... / BANK OF AMERICA ... 425379 / ... CREDIT NO

C&F Basrah, or
C&F Basrah via Kuwait.
Insurance covered locally at the end.

Transhipment ~~not~~ allowed.

SPECIAL INSTRUCTIONS :

1. Payment and/or negotiation under this Credit is restricted to the Advising Bank, unless otherwise stated
2. If Credit is transferable advising bank is to obtain our prior approval of the name and address of the transferee
3. Inform us when the credit is cancelled wholly or partially
4. In case transhipment is allowed, port of transhipment and the second carrying vessel's name should be indicated on the relative bill of lading
5. In case shipment effected via Beirut, forwarders name from Beirut to Baghdad or their agents name in Baghdad must be stated on the Bill of Lading together with Credit's Number.

For legalization of invoices and certificates please see reverse

~~[illegible, struck out]~~

Please forward us the shipping documents, confirming to us and to the remitting bank that the Credit terms have been complied with. In reimbursement of your payments :

(X) Debit our account with you under advice
( ) Draw on our current account with our London office under advice
( ) Reimburse yourselves on the

This Credit remains valid in U.S.A. until 15th April.76.

THIS CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS ... INTERNATIONAL CHAMBER OF COMMERCE ~~xxxxxxxx~~ publication No.290. 1974

The attached addendum is an integral part of this L/C.

Kindly acknowledge receipt

T.R

Yours faithfully
RAFIDAIN BANK

Doc. Credits 37

P. T. O.

ATTACHMENT TO DOCUMENTARY CREDIT NO. 107/18343

1. Original commercial invoices should be (a) duly legalised by the chamber of union of commerce or industry (or similar authorised organization according to local practice) or concerned boards or Arab/Foreign chamber of commerce and (b) attested by the Iraqi commercial attache or his representative, in the Iraqi diplomatic or consular representation in the supplying country, taking into consideration:-

   In case of absence of an Iraqi commercial attache or his representative, legalisation by any Arab diplomatic, or consular, or commercial representation is acceptable.

2. Certificate of origin (legalized and attested as in para (1) above) is required. It should certify that the goods are wholly produced or manufactured in (U.S.A.) and do not comprise any parts, raw materials, labour or capital of Israeli origin and it should bear the following clauses:-

   (a) Name of producer or manufacturer.
   (b) Certification that producer or manufacturer is not a branch or a mother company of firms included in the Israeli boycott blacklist.

3. If the chamber of commerce and/or any organization mentioned in para 1 (a) above refuse to issue or legalise the certificate of origin containing clauses (a) and /or (b) in para (2), then the certificate of origin, accompanied by a separate declaration if used by the beneficiary, bearing our credit number, and clauses ( ) and/or (b) (I.E. Bearing the certificate of origin) legalized by a Notary Public, and attested as in para (1) is acceptable.

4. The attested original commercial invoices as in para (1) if incorporating requirements of certificate of origin as in para (2), is acceptable, in lieue of a separate certificate of origin except in the case stated in para (5) below.

5. If the origin of the goods differ from the country of shipment, then in addition to the commercial invoices stated in para (1) above, a certificate of origin issued in the country of origin of its photocopy, duly attested by the Iraqi commercial attache or his representative in the Iraqi Diplomatic or consular representation in the country of origin, supplier or shipment is required. In the absence of an Iraqi representation a legalisation by any Arab Diplomatic or consular or commercial representation in the country of origin, supplier or shipment is acceptable.

APPENDIX 9

MEMORANDUM CONCERNING CONSTITUTIONAL IMPLICATIONS OF ANTI-BOYCOTT PROPOSALS, SUBMITTED BY DAVID BRODY AND SEYMOUR GRAUBARD, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

MANDATORY DISCLOSURE OF BOYCOTT COMPLIANCE AND SELF-INCRIMINATION

Question. Does mandated disclosure of intended illegal activity run afoul of constitutional protections against self-incrimination?

This memorandum will address the question raised by the Chairman whether Congress can make compliance with boycott requests illegal and at the same time without violating their Fifth Amendment immunity against self-incrimination require exporters to report whether they have complied with such requests.

A review of pertinent decisions appear to indicate that such mandatory disclosure would, indeed, violate the right of a natural individual illegally complying with the boycott. However, the vast majority of United States companies, being corporations or other entities, do not have such a privilege.

In 1968, the U.S. Supreme Court, overruling a previous case, held that statutory obligations requiring bookmakers to register and pay an occupational tax under federal wagering tax statutes violated such individuals' Fifth Amendment privilege against self-incrimination because compliance with the statutory disclosure requirements would confront them with "substantial hazards of self-incrimination." (*Marchetti* v. *U.S.*, 88 S. Ct. 697 [1968]; *Grosso* v. *U.S.*, 88 S. Ct. 709 [1968]. See also *Haynes* v. *U.S.*, 88 S. Ct. 722 [1968].)

In other cases, the Court has distinguished a general requirement to report information in "an essentially noncriminal and regulatory area of inquiry" (*California* v. *Byers*, 91 S. Ct. 1535 [1971], upholding a California State requirement that motorists involved in accidents leave their identification).[1] Mandating the reporting of intention to comply with an illegal boycott request would appear closer to the former than the latter category.

While individuals acceding to boycott requests would, therefore, be constitutionally protected from the necessity to report their wrongdoing, a long line of cases makes it clear that the constitutional privilege against self-incrimination cannot be utilized by or in behalf of a corporation or other organization. (*Hale* v. *Henkel*, 26 S. Ct. 370 [1906], and later cases. See especially *George Campbell Painting Corp.* v. *Reid*, 88 S. Ct. 1978 [1968]; *California Bankers Association* v. *Shultz*, 94 S. Ct. 1494 [1974]). In *United States* v. *White*, 64 S. Ct. 1248 [1944], the Court held that an officer of an unincorporated labor union has no privilege against self-incrimination in his official capacity, stating that individuals, "when acting as representatives of a collective group, cannot be said to be exercising their personal rights and duties in order to be entitled to their purely personal privileges. . . . The constitutional privilege against self-incrimination is essentially a personal one, applying only to natural individuals."

Clearly, the vast majority of American businesses would not be entitled to such a privilege. The requirement of disclosure will therefore be a valuable tool to combat the Boycott. The requirement can be waived for the occasional individual for whom it would be constitutionally defective.

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[1] Similarly merely requiring the exporter to report the receipt of a boycott request would not raise a Fifth Amendment question.

APPENDIX 10

LIBRARY OF CONGRESS STUDY PREPARED BY THE AMERICAN LAW DIVISION, CONCERNING THE CONSTITUTIONALITY OF PROPOSED AMENDMENTS TO THE EXPORT ADMINISTRATION ACT OF 1969

THE LIBRARY OF CONGRESS

Congressional Research Service

WASHINGTON, D.C. 20540

July 16, 1976

To: House Committee on International Relations
Attention: Honorable Thomas E. Morgan

From: American Law Division

Subject: Constitutionality of Proposed Amendments to the Export Administration Act of 1969

Pursuant to your letter of July 1, 1976, we are forwarding a discussion of self-incrimination defenses which might result from passage of both H.R. 4967 and H.R. 11463. If we can be of further assistance please let us know.

Kent M. Ronhovde
Legislative Attorney

PROPOSED AMENDMENTS TO THE EXPORT ADMINISTRATION ACT OF 1969
AND THE SELF-INCRIMINATION DEFENSE

Introduction

The proposals to amend the Export Administration Act of 1969 found in H. R. 4967 and H. R. 11463 of the 94th Congress, would require companies to report information which might subsequently lead to their criminal prosecution based on such data. However, this does not in itself render such legislation constitutionally infirm.

The Fifth Amendment provides that "[n]o person ... shall be compelled in any criminal case to be a witness against himself..." This privilege may provide a defense to prosecution for failure to supply statutorily required information where there is reasonable ground for a person to apprehend a substantial danger that such information, if supplied, would be available to prosecuting authorities and would tend to establish guilt of a criminal offense. In the provisions here at issue, criminal penalties are indeed provided for but the entities required thereby to submit reports may not be "persons" as the Supreme Court has interpreted that term in the self-incrimination context.

The Proposals

It is H. R. 4967 which establishes the criminal offense. The original Export Administration Act (Pub. L. 91-184, 83 Stat. 841) declared in Section 3(5) that: "It is the policy of the United States

(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, and (B) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States." [this section is now found at 50 App. U. S. C. §2402(5)(A) and (B)] Section 4(b)(1) of the Act, as amended, provides that "[t]o effectuate the policies set forth in Section 3 of this Act, the President may prohibit or curtail the exportation from the United States, its territories and possessions, of any articles, materials, or supplies, including technical data or any other information, except under such rules and regulations as he shall prescribe. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person" [this section is now found at 50 App. U.S.C. §2403(b)(1)].

Such regulations become criminal in nature when considered with Section 6(a) of the Act which makes knowing violation of either provisions of the Act or "any regulation, or license issued thereunder" punishable by a fine of not more than $10,000 or imprisonment for

than one year, or both. A greater penalty is provided for a second or subsequent offense. [This Section is now 50 App. U.S.C. §2405(a)] H.R. 4967 would amend section 4(b)(1) to include provision that those regulations "shall prohibit, in furtherance of the policy set forth in section 3(5)(A) and (B), the taking of any actions, including the furnishing of information or the signing of agreements, by domestic concerns engaged in the export of articles, materials, or supplies, including technical data, from the United States which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States ..." Failure to comply with this regulation would carry the criminal penalties of Section 6(a).

H.R. 11463, if enacted, would require the Secretary of Commerce to implement Section 3(5) through "such rules and regulations as he may deem necessary and appropriate." The bill states that "[s]uch rules and regulations shall require that any domestic concern which receives a request for the furnishing of information, the signing of agreements, or the taking of any other action referred to in Section 3(5) of this Act, shall transmit to the Secretary of Commerce a report stating that such request was received, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the purposes of that section. Such report shall also state whether such concern intends to comply with such request." (Emphasis added). The term

"domestic concerns", to whom this proposal would have application, is defined in the bill as including "banks and other financial institutions, insurers, freight forwarders, and shipping companies organized under the laws of the United States or of any State or any political subdivisions thereof."

H.R. 11463 also provides that these regulations are to prohibit domestic concerns from participating in, or helping to further restrictive trade practices or boycotts. The bill would allow the head of any department or agency exercising functions under the Act to impose a civil penalty of up to $10,000 for each violation of such regulations--such penalty to be either in addition to or in lieu of any other liability or penalty which could be imposed. It should be noted that Section 6(c) of the Act already provides for a $1000 civil penalty for violations of the Act. The $10,000 liability would apply only to violations of the regulations added by this bill.

Availability of the Defense

There is little doubt that a sole proprietor or sole practioner, could successfully defend a prosecution for failure to file the required report on fifth amendment grounds. Bellis v. United States, 417 U.S. 85, 87 (1974). However, such a defense is a personal one and cannot be utilized by or on behalf of an organization such as a corporation or partnership. Hale v. Henkel, 201 U.S. 43 (1906). In order to be protected by the privilege the information must be the private property of the person claiming the privilege, or at least in his possession in a purely personal capacity. Boyd v. United States, 116 U.S. 616 (1886) A corporation is not a "person" for the purposes of the fifth amendment privilege.

The dilemma of the business organization was described by the Supreme Court in United States v. White, 322 U.S. 694 (1943). Justice Murphy wrote:

> ...individuals, when acting as representatives of a collective group, cannot be said to be exercising their personal rights and duties nor to be entitled to their purely personal privileges. Rather they assume the rights, duties and privileges of the artificial entity or association of which they are agents or officers and they are bound by its obligations. In their official capacity, therefore, they have no privilege against self-incrimination. And the official records and documents of the organization that are held by them in a representative rather than in a personal capacity cannot be the subject of the personal privilege against self-incrimination, even though production of the papers might tend to incriminate them personally. Wilson v. United States, [221 U.S. 361]; Dreier v. United States, 221 U.S. 394; Baltimore & Ohio R. Co. v. Interstate Commerce Commission, 221 U.S. 612; Wheeler v. United States, 226 U.S. 478; Grant v. United States, 227 U.S. 74; Essgee Co. v. United States, [262 U.S. 151]. Such records and papers are not the private records of the individual members or officers of the corporation. (at 699)

The Court added that "the framers of the constitutional guarantee against compulsory self-disclosure, who were interested primarily in protecting individual civil liberties, cannot be said to have intended the privilege to be available to protect economic or other interests of such organizations so as to nullify appropriate governmental regulations." (at 700)

The author of a recent law review article, discussing Bellis v. United States, supra, said: "The Supreme Court has recently ruled

that a three-person partnership does not have a fifth amendment privilege with respect to its business records. It would appear from the Court's reasoning that regardless of how small the partnership, individual partners can no longer refuse to produce partnership records which tend to incriminate them, thus leaving the single proprietorship as the only remaining protected business entity." 3 Hofstra Law Review 467 (1975) The test set out in Bellis for the determination of that type of activity which is not to be protected would likely encompass most organizations which would be the target of legislation such as is discussed here. The Court said that all that was needed to preclude the defense was a showing that the group in question was "relatively well organized and structured, and not merely a loose, informal association of individuals. It must maintain a distinct set of organizational records, and recognize rights in its members of control and access to them." (at 92, 93).

A Similar Provision Under Present Law

It may be instructive here to briefly examine one controversy surrounding portions of the Federal Water Pollution Control Act which involves a similar legal issue. 33 U.S.C. §1321(b)(3) prohibits the discharge of oil or hazardous substances into navigable waters of the United States. Section 1321(b)(5) requires that "any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous

substance from such vessel or facility ... immediately notify the appropriate agency of the United States Government of such discharge." Failure to so notify carries a criminal penalty of one year imprisonment and/or a fine of up to $10,000. There is, however, included in this section an immunity provision which states that "[n]otification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement." What is not immunized is civil liability based on section 1321(b)(6) which provides for the assessment of a $5000 fine for each violation. The "use" immunity provision obviates the self-incrimination issue regarding the penalty declared by the statute to be criminal, for the immunity has been held to apply to corporations. United States v. Mobil Oil Corp., 464 F. 2d 1124 (5th Cir. 1972). The controversy flows from the interpretation by some courts that the "civil" penalty is in fact a criminal one which has no corresponding immunity provision.

United States v. Lebeouf, 377 F. Supp. 558 (E.D. La. 1974) held that a corporation was entitled to immunity from the civil penalty assessment. Having determined that the penalty was a criminal one in spite of the language of the statute, the court found that the immunity provision of the previous section must be found to apply equally to the "civil" penalty. The opinion alluded to the rarity of the predicament:

> "To the knowledge of the Court and assumably the litigants, these mutually dependant paragraphs...constitute sui generis legislation; that is, this statutory situation is the only determinable instance where Congess has coupled a punitive, albeit denominated "civil," sanction with a mandatory and criminally enforceable self-notification procedure (the constitutional validity of such procedure being protected by a statutory grant of immunity conterminous with that of the Fifth Amendment), with the latter procedure invariably triggering imposition of the punitive sanction." (at 566)

The decision stated that "this two-fold procedure is subject to legislative abuse with respect to the traditionally criminal laws as well as other publicly obnoxious conduct in the sense that it provides a vehicle by which to totally circumvent the protective guarantees against self-incrimination under the Fifth Amendment or a grant of statutory immunity." (at 566). The appeal in this case is still pending. Appeal Docket No. 74-3140, 5th Cir. Aug. 15, 1974.

The court repeatedly asserted the presence of a corporate self-incrimination protection apart from the statutory immunity provision. The outcome of the case if based on the statute, may have been correct, but no corporate fifth amendment privilege should have been relied on. One author recently wrote of this case:

> "Thus, the court should have considered the constitutional requirements of the fifth amendment privilege against self incrimination in determing the applicability of the immunity to corporations.
>
> The constitutional requirements with relation to immunity grants are clear. The Government must give an individual immunity in order to extract notice of an oil spill; an individual otherwise would be protected by the fifth amendment from being required to make such a disclosure. However, it is well

> settled that corporations are not entitled to the fifth amendment privilege. Furthermore, an individual cannot claim the privilege on behalf of his corporate employer because the privilege is personal in nature and may not be claimed on behalf of third parties." 55 Boston University Law Review 112, 120-121 (1975).

In United States v. General Motors Corporation, 403 F. Supp. 1151 (D.Conn. 1975) the court also dealt with the civil penalty section, holding that it was indeed "civil" and not "criminal" in nature and therefore could be assessed through the use of the defendant's notification. The opinion added that "[f]urthermore, insofar as the contrary analysis in Lebeouf is based on the fifth amendment, it is inapplicable to the present case, since a corporation has no constitutional privilege against self-incrimination. While Lebeouf likewise concerned a corporate defendant, the opinion did not explain how, in that circumstance, the conclusion that the statutory scheme was constitutionally faulty could be based on the privilege against self-incrimination." (at 1160).

The Civil/Criminal Distinction

The controversy over the true nature of penalties termed "civil" is an on-going one. That is, are such monetary penalties to be accepted as civil merely because they are so labeled in the legislation or should courts look rather to the true nature of the penalty sought to be imposed and on occasion find it to be essentially criminal in its application? If H.R. 11463 and H.R. 4967 are both enacted, a

"domestic concern" might reasonably fear that the filing of the required report (if compliance with a restrictive trade practice is contemplated) would subject it to criminal prosecution based on that information. However, H.R. 11463 alone may also raise that fear if the $10,000 monetary penalty is perceived as a criminal sanction in spite of the term "civil" used in the bill. The question will, as we have seen, only have relevance to an entity entitled to the fifth amendment privilege.

There appears to be little doubt that Congress may provide civil proceedings for the collection of penalties which are civil or remedial sanctions rather than punitive. Helvering v. Mitchell, 303 U.S. 391 (1938). A general trend toward the increased use of civil penalties instead of criminal sanctions has not taken place without criticism. The allegation is frequently made that this procedure is, in effect, an end-run around the constitutional protections afforded those being criminally prosecuted. But even the advocates of reform in this area do not quarrel with the fact that to date the courts have done little to discourage the practice. See 59 Cornell Law Review 478 (1974); 65 Journal of Criminal Law and Criminology 345 (1974). Those supportive of the delegation of substantial authority to administrative officers argue rather that monetary penalties such as that included in H.R. 11463 are in fact less severe than other sanctions commonly imposed by the agencies such as seizures, revocation of licenses, deportation orders etc... See 1970 Washington University Law Quarterly 265.

How a given statute will be interpreted will depend on a myriad of factors, and the Supreme Court has acknowledged that this problem of distinguishing that which is civil from that which is criminal "has been extremely difficult and elusive of solution." In Kennedy v. Mendoza-Martinez, 372 U.S. 144 (1963) the Court enumerated some of the traditional tests which have been applied: (1) Whether the sanction involves an affirmative disability or restraint; (2) whether it has historically been regarded as a punishment; (3) whether it comes into play only on a finding of scienter; (4) whether its operation will promote the traditional aims of punishment, namely, retribution and deterrence; (5) whether the behavior to which it applies is already a crime; (6) whether an alternative purpose to which it may rationally be connected is assignable for it; and (7) whether it appears excessive in relation to the alternative purpose assigned. (at 168, 169). The Court said of these factors that all are "relevant to the inquiry, and may often point in differing directions. Absent conclusive evidence of congressional intent as to the penal nature of a statute, these factors must be considered in relation to the statute on its face." (at 169)

Conclusion

Even if a failure to report as required by H.R. 11463 should be found to involve an individual rather than an entity not entitled

to the self incrimination defense, it should be kept in mind that such information may still be required of the individual if proper immunity is granted. Section 7(b) of the Export Administration Act [now at 50 App. U.S.C. §2406(b)] provided that "no person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege." While the Compulsory Testimony Act was repealed by the Organized Crime Control Act of 1970 (Pub. L. 91-452, 84 Stat. 931), that repealing legislation enacted 18 U.S.C. §6002 which provides:

> Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information, in a proceeding before or ancillary to —
>
> (1) a court or grand jury of the United States,
>
> (2) an agency of the United States, or
>
> (3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House,
>
> and the person presiding over the proceeding communicates to the witness an order issued under this part, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination; but no testimony or other information compelled under the order (or any information directly or indirectly derived from such testimony or other information) may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order."

The constitutionality of compelling testimony under this section was upheld in Kastigar v. United States, 406 U.S. 441 (1972) in which the Court held that such immunity from use and derivative use is coextensive with the scope of the privilege against self-incrimination, and therefore is sufficient to compel testimony over a claim of the privilege.

A few general observations can thus be made regarding the effect of passage of the two bills in question. It is unlikely that a self-incrimination defense can be successfully asserted regarding the report requirement by a business concern which is more than a sole proprietorship. If both bills are enacted, an individual may have a valid Fifth Amendment defense to a prosecution for failure to report. If H.R. 11463 alone is enacted, such defense may still be available to an individual if the "civil" penalty there provided is construed to be criminal in nature. However, as the general trend appears to be toward the acceptance of such "civil" penalties as being civil in application, such a defense is unlikely to be recognized by the courts. And finally, where a self-incrimination defense is successfully argued, the use immunity provisions of Title 18 provide a mechanism for forcing disclosure.

Kent M. Romovde
Legislative Attorney
American Law Division
July 16, 1976

APPENDIX 11

LIBRARY OF CONGRESS STUDY PREPARED BY THE ECONOMICS DIVISION, CONCERNING THE IMPLICATIONS OF ALLOWING THE EXPORT ADMINISTRATION ACT TO EXPIRE

THE LIBRARY OF CONGRESS

Congressional Research Service

WASHINGTON, D.C. 20540

June 17, 1976

TO : The Honorable Thomas E. Morgan, Chairman
Committee on International Relations
Attention: Mr. George Ingram

FROM : Economics Division

SUBJECT: Implications of allowing the Export Administration Act to expire

Expiration of the Export Administration Act of 1969.

The Export Administration Act of 1969, as amended, is presently slated to expire on September 30, 1976. Since the Act is the basic statutory authority for controls over the major portion of United States exports, its expiration would eliminate an indispensable tool of U.S. foreign economic policy and permit the completely unrestricted and uncontrolled exportation of any commodity or technical data not controlled by some other statute. The expiration could possibly also result in the abolition of the Office of Export Administration of the Department of Commerce.

Exports that do not fall within the control jurisdiction of the Export Administration Act and would, consequently, still remain subject to controls under their own specific legislation, administered by other agencies, are the following:

(1) arms, ammunition, and implements of war and related technical

data controlled by the U.S. Office of Munitions Control (U.S. Department of State) under section 414 of the Mutual Security Act of 1954;

(2) nuclear materials and facilities, and nuclear technical data controlled, respectively,by the Nuclear Regulatory Agency and the Energy Research and Development Administration under the Atomic Energy Act of 1954;

(3) merchant ships controlled by the U.S. Maritime Administration under the Shipping Act, 1916:

(4) bronze pennies controlled by the U.S. Department of the Treasury under the Coinage Act of 1965;

(5) natural gas and electric energy controlled by the Federal Power Commission under the Natural Gas Act and the Federal Power Act, respectively;

(6) narcotics and dangerous drugs controlled by the Drug Enforcement Administration (U.S. Department of Justice) under the Controlled Substances Export and Import Act;

(7) endangered and threatened species of animal and plant life controlled by the U.S. Fish and Wildlife Service (U.S. Department of the Interior), the National Marine Fisheries Service (U.S. Department of Commerce), and the U.S. Forest Service (U.S. Department of Agriculture) primarily under the Endangered Species Act of 1973 and also under several other statutes of more limited scope.

In addition, the virtual embargo on exports to Rhodesia, imposed under the authority of section 5 of the United Nations Participation Act (22 U.S.C. 287c) as well as under the Export Administration Act (Cf. 15 C.F.R. 385.3; or 37 F. R. 25704), would remain in effect but would be subject to different penalties than under the Export Administration Act. Section 5 of the U.N. Participation Act contains no provision for administrative proceedings or civil penalties and limits the criminal penalty to a $10,000 fine and/or 5 years imprisonment, and forfeiture of all property involved in the violation.

It should also be noted that the embargo on exports of arms, munitions, military equipment, and materials for their manufacture, to South Africa which was imposed —like the embargo on exports to Rhodesia--in conformity with a U.S. Security Council resolution, was imposed--unlike the Rhodesian embargo--without the recourse to the statutory authority of the U.N. Participation Act. Consequently, the expiration of the Export Administration Act would also remove the controls on exports to South Africa of those embargoed commodities that at present fall within the jurisdiction of the Office of Export Administration. Controls of similar exports, exercised by other agencies (principally the Office of Munitions Control) would, of course, not be affected.

On the international scene, the expiration of the Export Administration Act and the resultant elimination of controls on exports of, among other,

high technology would make impossible the implementation by the United States of controls on such exports, agreed upon mutilaterally through the Coordinating Committee (COCOM) with the participation of most Western industrial nations. It would not, on the other hand, terminate the U.S. participation in the COCOM, which is authorized by another statute (Mutual Defense Assistance Control Act of 1951; "Battle Act").

In brief, the expiration of the Export Administration Act would bring about the termination of export controls administered under the auth ity of the Export Administration Regulations, with the exception of the embargo on exports to Rhodesia, and thereby eliminate the major portion of the U.S. export control system, affecting such vital areas as national security controls on non-military high technology, and short supply controls on petroleum. It would also eliminate the United States from participation in the implementation of international controls exercised within the COCOM system, a system originally set up at the initiative of the United States.

Past interim measures extending the controls.

Although the above listed situation is possible in theory, it is not likely to occur in practice. The history of recent export control legislation shows that, whenever the approval of legislation extending the export control statute would be delayed beyond its current expiration date, interim measures were invariably taken to prevent the lapse of export controls. This was done on several occasions by (1) approving

a simple extension of the law, or (2) allowing the law to expire but by executive action under a different statutory authority continuing in force the export control regulations.

When the consideration of the Export Administration Act of 1969 delayed its final approval beyond the June 30, 1969 expiration date of its predecessor statute, the Export Control Act of 1949, the Congress on three successive occasions approved by Joint Resolution a simple extension of the 1949 statute. The first extension (S.J. Res 122; P.L. 91-35, June 30, 1969; 83 Stat. 42) moved the expiration date from June 30 to August 30, 1969; the second extension (H.J. Res. 864; P.L. 91-59, August 18, 1969; 83 Stat. 101) amended the expiration date of the 1949 Act from June 30 (Sic!; perhaps technical error in legislation), 1969 to October 31, 1969; and, finally, P.L. 91-105 (October 31, 1969; 83 Stat. 169; S.J. Res. 164) changed the expiration date from October 31 to December 31, 1969. The Export Adminstration Act of 1969 became effective on December 30, 1969, before the expiration of the third extension.

Similarly, the delay in approving the Equal Export Opportunity Act (P.L. 92-412; August 29, 1972 ; 86 Stat. 644) resulted in three simple extensions of the June 30, 1971 expiration date of the Export Administration Act of 1969: by P.L. 92-37 (June 30, 1971; 85 Stat. 89; S.J.Res. 118) to October 31, 1971; by P.L. 92-150 (October 30, 1971; 85 Stat. 416; S.J. Res. 167) to May 1, 1972; and by P.L. 92-284 (April 29, 1972; 86 Stat. 133; (S.J. Res. 218) to August 1, 1972. When the Equal Export Opportunity Act

Export Administration Amendments Act of 1974 (P.L. 93-500; October 29, 1974; 88 Stat. 1552) extended the Export Administration Act through September 30, 1976. This extension, like the preceding one effected by P.L. 93-372, however, did not contain any retroactive provision. Subsequently, on November 5, 1974, the executive action of September 30, 1974, was revoked by Executive Order 11818 (39 F.R. 39429).

Usefulness of interim extending measures

In the event that the legislation to amend and extend the Export Administration Act, presently pending in Congress, is not approved by September 30, 1976, the export controls arguably may be continued in force by using either of the two methods that had been used to this end in the past. Of the two, the legislative method is the more desirable one because it may avoid (1) any discontinuity in the statute itself, and, consequently (2) the possibility of any change in the scope or administration of export controls or, more crucially, the possibility of a lapse of certain regulatory provisions, or of the effect of actions, based on the authority of the expired Act if a corresponding authority is not contained in the stop-gap statute (Trading With the Enemy Act).

One difference between the Export Administration Act and the Trading With the Enemy Act received recognition in the Executive Orders issued in the past for the purpose of continuing in force the export controls under the authority of the latter statute after the expiration of the former. In every instance, the Executive Order

still had not passed by August 1 and the termination date of the Export Administration Act had not been extended by law, the President by Executive Order 11677 (37 F.R.15483), issued under the authority of section 5 (b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b), or 12 U.S.C. 95a) continued in full force and effect all regulatory provisions promulgated and actions taken under the authority of the expired statute. When the Equal Export Opportunity Act, approved on August 29, 1972, amended and extended the Export Administration Act through June 30, 1974, with retroactive effect to July 31, 1972, the President by Executive Order 11683 (37 F.R.17813) revoked the earlier Order except for any action taken under its authority.

In 1974, likewise, a combination of legislative and executive actions was used to keep the export controls in effect. P.L. 93-327 (June 30, 1974; 88 Stat. 287; H.J.Res. 1057) first changed the expiration date of the Export Administration Act to July 30, 1974. No other legislative extension having taken place, the President on July 30, 1974, by Executive Order 11796 (39 F.R. 27891) extended the export controls again using the authority of the Trading With the Enemy Act, and revoked that Order on August 14, 1974 (E.O.11798; 39 F.R. 29567) when the extension of the Act through September 30, 1974 was approved by P.L. 93-372 (August 14, 1974; 88 Stat. 444; H.J.Res. 1104).

The same situation occurred on September 30, 1974 when the controls were again continued in force by Executive Order (No.11810; 39 F.R.35567) until the

specifically limited the criminal penalty (fine), which may be imposed for an export control violation, to $10,000, the maximum amount applicable to violations of the Trading With the Enemy Act. Fines imposed under the Export Administration Act may be as high as $20,000 or five times the value of the export involved in the violation, whichever is greater. The Executive Orders, on the other hand, disregarded the difference in the maximum length of imprisonment provided for by the two statutes: under the Export Administration Act and in regulations promulgated thereunder but extended under the Trading With the Enemy Act, the maximum prison term is five years, while the Trading With the Enemy Act itself has a higher limit of ten years. The Executive Orders also specifically stressed the non-applicability of the civil penalty of $1,000 for each violation, which is authorized by the Export Administration Act, while no such provision is contained in the other statute.

The Executive Orders, likewise, contained no reference to administrative sanctions the most important of which is the denial of export privileges. While the Export Administration Act contains no specific provision authorizing administrative sanctions other than the civil penalty of $1,000 per violation, the Department of Commerce has held, apparently with Congressional acquiescence, that the authority to impose such sanctions is inherent in the Act. The correctness of this interpretation has, to our knowledge, not been tested in the courts. This issue, however, seems to raise an

additional question whether the authority to impose administrative sanctions is also inherent in the Trading With the Enemy Act, with a more practical corollary as to whether any such sanctions imposed during a Presidential extension of export controls under the latter statute are legal. A related question stems from the fact that export privilege denials may be issued for a specific time period, for an indefinite period, until further notice, or for "duration". The last type of denial especially may merit a closer look in connection with the executive extensions of the export controls.

A denial of export privileges for "duration" is explained in the Export Administration Regulations (15 C.F.R. 388, Suppl. 1 (a) (4)) as one "denying export privileges for the duration of export controls; that is, as long as the Export Administration Act of 1969, as amended, or successor legislation that provides for carry-over, is in effect." In view of the fact that Presidential extensions of export controls have taken place at times when the Act had expired, there exists the possibility that denial orders, issued for "duration" prior to the executive extensions, no longer have effect. One the other hand, this possible defect may have been cured in one out of the three instances by the retroactive effect of the statutory extension following the executive action extending controls (see above P.L. 92-412) which bridged the temporarily existing gap in the statutory authority of the Export Administration Act. It needs pointing out, however, that the latest two statutory extensions following the Presidential ones (P.L. 93-372 and 93-500) do not contain specific retroactive provisions.

The use of the Trading With the Enemy Act may contain some other defects as far as the unimpaired continuity of export control regulations is concerned. Despite its broad scope, the Trading With the Enemy Act does not appear to contain authority for the antiboycott provisions, such as those of the Export Administration Act and regulations. It may also be deficient in regard to controlling at least certain types of exports of technical data (e.g., filing for a foreign patent).

Finally, the authority of the Trading With the Enemy Act itself, sweeping as it might be, is contingent on the existence of war or national emergency proclaimed by the President.

Since we do not possess the necessary expertise to provide a legal analysis of the suggested shortcomings of the Trading With the Enemy Act as statutory authority for the extension of all export control regulations, we have requested our American Law Division to prepare such an analysis for your use.

Vladimir N. Pregelj
Specialist in International Trade & Finance

APPENDIX 12

LIBRARY OF CONGRESS STUDY PREPARED BY THE AMERICAN LAW DIVISION, CONCERNING THE EFFECT OF EXECUTIVE ACTION EXTENDING EXPORT CONTROLS

THE LIBRARY OF CONGRESS

Congressional Research Service

WASHINGTON, D.C. 20540

July 14, 1976

To: House Committee on International Relations
Attn: George Ingram

From: American Law Division

Subject: Effect of Executive Action Extending Export Controls

Reference is made to your inquiry of June 16, 1976 requesting information on the above matter. Specifically, you ask for our comments regarding the legal effect of presidential action under section 5(b) of the Trading With the Enemy Act, as amended (TWEA), 12 U.S.C.A. 95 a, 50 U.S.C.A. App. 5(b) effectively extending certain provisions and activities authorized by the Export Administration Act of 1969, as amended (EAA) 50 U.S.C.A. App. 2401-2413, should the latter expire as scheduled on September 30, 1976, 50 U.S.C.A. App. 2413; viz., the so-called antiboycott provisions, controls on export of technical data, and administrative sanctions especially denials of exports privileges for the duration. Stated differently, does the emergency authority granted to the President by section 5(b) of the TWEA constitute a sufficient basis to effectuate the mentioned policies and programs clearly authorized by the EAA, 50 U.S.C.A. 2402(5), 2403(a)(1), (b) (1), 2405(a); 15 C.F.R. 369, 379, 388?

As explained in the June 17, 1976 memorandum by Vladimir N. Pregelj, Specialist in International Trade and Finance, to the Committee on International Relations, the assumed presidential action has two immediate precedents. Invoking both constitutional and statutory powers, "including Section 5(b) of the act of October 16, 1917, as amended (12 U.S.C. 95a)", (TWEA), President Nixon issued an executive order continuing the regulation of exports for a month in 1972. E.O. 11677, 37 F.R. 15483 (1972). This temporary measure was utilized because the existing law which authorized export controls, the EAA, had expired. When export control legislation was reenacted, see 50 U.S.C.A. App. 2413 note, for statutory extensions, E.O. 11677 was revoked by E.O. 11683, 37 F.R. 17813 (1972).

When statutory export controls expired in 1974, President Nixon again issued an executive order regulating exports based on constitutional and statutory powers, including section 5(b) of the TWEA. E.O. 11796, 37 F.R. 27891 (1974). As on the earlier occasion, E.O. 11796 was later revoked by another executive order, E.O. 11798, 39 F.R. 29567 (1974). In each case the revoking orders expressly provided that "this revocation shall not affect any violation of any rules, regulations, orders, licenses, and other forms of administrative actions under said order ...."

Of course, these precedents, in and of themselves, do not insulate from challenge any renewed presidential action extending export controls. Although "longstanding administrative construction [together with congressional acquiescence therein] is entitled to great weight," Saxbe v. Bustos, 419 U.S. 65, 74 (1974), such construction and acquiescence cannot validate the exercise of unauthorized activity. Hampton v. Mow Sun Wong,

No. 73-1596 (June 1, 1976). Accordingly, authority for the issuance of yet another presidential directive extending export regulations must be found in either the Constitution or statutes, specifically section 5(b) of the TWEA. Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 585 (1952).

Your inquiry raises questions regarding the Presidents constitutional powers to regulate commerce, his authority under section 5(b) of the TWEA, the propriety of the congressional delegation under that section, and the nature of the power necessary to enact penal provisions. Generally speaking, section 5(b) of the TWEA constitutes plausible temporary authority to extend export controls expressly authorized by the EAA and some of the administrative procedures associated therewith. However, the extension by presidential action of the antiboycott provisions in the expiring law seems highly questionable.

I

Although the Constitution of the United States makes no reference to presidential authority in the regulation of commerce, the Supreme Court has recognized that it may be implied from powers expressly conferred on him. In Chicago & S. Airlines v. Waterman S.S. Corp., 333 U.S. 103 (1948), the Supreme Court refused to review orders of the CAB granting or denying application by citizen carriers to engage in overseas and foreign air transportation which by the terms of the Civil Aeronautics Act are subject to approval by the President and therefore impliedly beyond those provisions of the Act authorizing judicial review of Board orders.

> ... when a foreign carrier seeks to engage in public carriage over the territory or waters of this country or any carrier seeks the sponsorship of the Government to engage in overseas or foreign air transportation, Congress has

> completely inverted the usual administrative process. Instead of acting independently of executive control, the agency is then subordinated to it. Instead of being handed down to the parties as the conclusion of the administrative process, it must be submitted to the President, before publication can take place. Nor is the President's control of the ultimate decision a mere right of veto. It is not alone issuance of such authorizations that are subject to his approval, but denial, transfer, amendment, cancellation or suspension as well. And likewise subject to his approval are terms, conditions and limitations of the order .... Thus presidential control is not limited to a negative but is a positive and detailed control over the Board's decisions, unparalleled in the history of American administrative bodies. 333 U.S. at 109.

Noteworthy for present purposes is the following observation of the Court regarding the relevant powers of the President:

> Congress may of course delegate very large grants of its power over foreign commerce to the President.... The President also possesses in his own right certain powers conferred by the Constitution on him as Commander-in-Chief and as the Nation's organ in foreign affairs. For present purposes, the order draws vitality from either or both sources. 333 U.S. at 109-110.

More recently it was held that until Congress legislates on the subject, the President has implied authority to enter into voluntary agreements which affect U.S. trade relations with foreign countries. Consumers Union of U.S. Inc. v. Kissinger, 506 F. 2d 136 (D.C. Cir. 1974). That case involved a challenge to the Voluntary Restraints arrangements on Steel which were mutually made between certain foreign steel companies as a result of negotiations initiated by the Secretary of State at the direction of the President. Under these arrangements, nine Japanese Steel Companies, and various Western European steel manufacturers belonging to the European Coal and Steel Community by detailed agreements undertook to reduce substantially the amounts of steel they would export to the United States for domestic sale. It was contended that the actions of the State Department

in stimulating and implementing these arrangements were unauthorized and that no member of the Executive Department, including the President, has power under the Constitution and laws to enter into or to arrange the resulting restrictions on foreign commerce in steel; that under the Constitution, Congress has authority to regulate domestic and foreign trade and the enactment of the Trade Expansion Act of 1962, as amended (TEA), 19 U.S.C.A. 1801 et seq., occupied the field, to the exclusion of any residual power in the President to take unilateral action.

The trial court rejected petitioners' arguments and held that these arrangements being voluntary were not preempted by existing laws regulating foreign commerce since these laws were concerned with enforceable agreements. In the words of the court:

> While the legislative pattern is indeed comprehensive and the President's authority has been narrowed, these acts cannot be read as a congressional direction to the President prohibiting him from negotiating in any manner with private foreign companies as to commercial matters. Far more explicit legislation would be required to deprive the President of this authority in foreign affairs where his pre-eminent role has quite properly long had firm constitutional recognition. 352 F. Supp. 1319, 1323 (1973).

The Court of Appeals affirmed in this particular, stating:

> The question of Congressional preemption is simply not pertinent to executing action of this sort. Congress acts by making laws binding, if valid, on their objects and the President, whose duty it is faithfully to execute the laws. From the comprehensive pattern of its legislation regulating trade and governing the circumstances under and procedures by which the President is authorized to act to limit imports, it appears quite likely that Congress has by statute occupied the field of enforceable import restrictions, if it did not, indeed, have exclusive possession thereof by the terms of Article I of the Constitution. There is no potential for conflict, however, between exclusive congressional regulation of foreign commerce ... and assurances of voluntary restraint given to the Executive. Nor is there any warrant for creating such a conflict by

straining to endow the voluntary undertakings with legally binding effect, contrary to the manifest understanding of all concerned and, indeed, to the manner in which departures from them have been treated. 506 F. 2d a 143-144.

II

The Export Administration Act of 1969, as amended (EAA), essentially continues long-standing regulation of exports from the United States. See Berman & Garson, United States Export Controls - Past, Present, and Future, 67 Columbia Law Review 791 (1967). It authorizes controls for three purposes - national security, foreign policy and short supply. Congressional concern for these three purposes is reflected in both the EAA's statement of findings and declaration of policy. 50 U.S.C.A. App. 2401, 2402. In 1974, Congress added a fourth purpose to the Act, the so-called anti-boycott provision wherein it is declared to be U.S. policy "to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States." 50 U.S.C.A. App. 2402(5)

In order to carry out the EAA's various purposes, "the President may prohibit or curtail the exportation from the United States, its territories and possessions, of any articles, materials, or supplies, including technical data or any other information ...." 50 U.S.C.A. App. 2403(b)(1). "The export control authority, which has been delegated to the Secretary of Commerce [50 U.S.C.A. App. 2403 (e)], is administered by the Office of Export Control [now Office of Export Administration (OEA)] of the Bureau of International Commerce." United States v. Brimmage, 377 F. Supp. 144, 146 (E.D.N.Y. 1974), quoting from H. Rept. No. 524, 1969 U.S. Code Cong. and Admin. News p. 2705.

The Department of Commerce controls exports through either the issuance of a "validated license" or the establishment of a "general license" authorizing such shipments.

> A validated license is a formal document issued to an exporter by the Department. It authorizes the export of commodities within the specific limitations of the document. It is based upon a signed application submitted by the exporter.
>
> A general license is a broad authorization issued by the Department of Commerce which permits certain exports under specified conditions. Neither the filing of an application by the exporter nor the issuance of a license document is required in connection with any general license. The authority to export in such an instance is given in the "Export Control Regulation," published by the Department of Commerce, which specifics the conditions under which each general license may be issued. Ibid.

As explained in Administration of Export Controls [Committee Print]. Committee on International Relations, 94th Cong., 2d Sess. (1976) pp. 61-64:

> The principal sanctions applied to violators of export control provisions are those imposed by the Director of the OEA as a result of the administrative proceedings before the Hearing Commissioner. As the charging letter is required by regulation to indicate, these sanctions include: (1) general denial of export privileges, (2) total exclusion from practice before the Bureau of East-West Trade, U.S. Department of Commerce, and (3) monetary civil penalty. Each of these penalties may be imposed either alone or in addition to any of the other two. In less serious cases (e.g., in minor technical violations), a letter of warning may be sent to the violator.
>
> The most frequently used sanction that is more severe than a letter of warning is the denial of export privileges. Such a denial prohibits the violator from participating directly or indirectly, in any capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, or which are otherwise subject to Export Administration Regulations (e.g., reexports from foreign countries). The ban on such participation specifically, but not exclusively, refers to applying for, preparing, filing, obtaining, or using any export license, and to any commercial, financial, or similar

activity connected with any commodity or technical data (388.1(a)(2)). A denial order may be issued for a specific time period or, more often, for "duration", which means that it remains in effect for the duration of export controls, that is, as long as the present statute or any successor legislation that provides for carryover remains in effect. Denial orders may also be issued with a probationary period provision. During such period, usually following a period of actual denial, the denial of privileges is held in abeyance but may be reinstated upon an application by the Compliance Division for an order revoking the probation, a report and recommendation thereon by the Hearing Commissioner, and final determination by the OEA Director. The probation period may last for "duration" or until a specified date.

Denial of export privileges of more limited scope or duration may be imposed in a number of circumstances other than pursuant to a formal finding by the Hearing Commissioner. A charging letter, for example, may deny to the respondent the privilege of participating in any manner in any U.S. export transaction pursuant to a validated license; it may also, somewhat less restrictively, suspend or revoke any validated licenses outstanding to the benefit of the respondent, without denying him any other export privileges (388.11(a)).

Any order from an "indefinite" denial of expert privileges may be issued by the OEA Director against a person who refuses or fails to furnish to the OEA, in the course of an investigation or other proceeding, responsive answers to interrogatories or to other requests for information, documents, or other tangible things that have a bearing upon the investigation. An "indefinite" denial remains in effect until the person subject to it responds to the request or gives adequate reason for his failure or refusal to respond (388.15).

Denial orders may also be "temporary". Such denial orders may be issued against a person who is under investigation, or against whom administrative or judicial proceedings are pending, for violation of export control provisions, if such denial is found reasonably necessary to protect the public interest pending final disposition of the investigation or proceedings. They are issued only for such limited time, ordinarily not over 30 days, as is necessary to complete the case, but may be extended if necessary. Indefinite and temporary denial orders may be issued only if the Hearing Commissioner, upon application by the Compliance Division and his review of the case, approves such action (388.11(b), .15).

> An order issued upon default may be vacated by having the default set aside upon the respondent's application and the Hearing Commissioner's consideration of the case and recommendation (388.4(b)). Similarly, temporary denials of export privileges contained in a charging letter or an order as well as indefinite denial orders may be vacated or modified upon the filing of an appropriate motion with the Commissioner and after his consideration and recommendation (388.11(c), .15); similar procedure applies also to objections to, or requests to set aside, revocations of probation (388.16(b)). Any case may be reopened by the Commissioner upon a written request by the respondent and submission of relevant and material evidence which was not known or obtainable at the time of the original proceeding. The reopened proceeding is conducted in the same manner as the original one (388.12).

The EAA also provides substantial criminal and civil penalties for violating its provisions. Section 6(a) provides:

> ... Whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than $10,000 or imprisoned not more than one year, or both. For a second or subsequent offense, the offenders shall be fined not more than three times the value of the exports involved or $20,000, whichever is greater, or imprisoned not more than five years, or both. 50 U.S.C.A. App. 2405 (a).

Section 6(b) imposes similar substantial penalties (maximum fine of $20,000 or maximum imprisonment for five years, or both) for willfully exporting anything contrary to the Act, regulation, order, or license, with knowledge that such exports will be used for the benefit of any Communist-dominated nation. 50 U.S.C.A. App. 2405(b).

Finally, the head of any department or agency exercising functions under the EAA, or his delegate may impose a maximum $1,000 civil penalty for each violation of the Act, or any regulation, order, or license issued under the Act. 50 U.S.C.A. App. 2405(c). 50 U.S.C.A. App. 2405(e).

III

The EAA embodies general authority for regulating exports from the United States. Several additional statutes regulate exports of specific commodities or categories of commodities.

> Exports of arms, ammunition, and implements of war and of related technical data, for example, are controlled by the Office of Munitions Control of the U.S. Department of State under the authority of section 414 of the Mutual Security Act of 1954; exports of nuclear materials and facilities, and of nuclear technical data are controlled, respectively, (a) by the Nuclear Regulatory Commission and the Energy Research and Development Administration under the Atomic Energy Act of 1954. These controls have been instituted for reasons of national security.
>
> Exports controls based on other considerations (short supply, conservation, general public welfare, and regulation of public utilities) are administered by: (1) the Maritime Administration (U.S. Department of Commerce) over merchant ships under the Shipping Act, 1916; (2) the Department of the Treasury over bronze pennies under the Coinage Act of 1965; (3) the Federal Power Commission over natural gas and electric energy under the Natural Gas Act and the Federal Power Act, respectively; (4) the Drug Enforcement Administration (U.S. Department of Justice) over narcotics and dangerous drugs under the Controlled Substances Export and Import Act; and (5) the U.S. Fish and Wildlife Service (U.S. Department of the Interior), the National Marine Fisheries Service (U.S. Department of Commerce), and the U.S. Forest Service (U.S. Department of Agriculture) over endangered and threatened species of animal and plant life primarily under the Endangered Species Act of 1973 and also under several other statutes of more limited scope. Administration of Export Controls, supra, pp. 1-2.

As noted above, presidential authority to regulate commerce may be implied from constitutional powers expressly conferred on him. This power, however, may be eclipsed by Congress to whom the Constitution has given "plenary" power to regulate domestic and foreign trade. U.S. Const. Art. I, sec. 8, cl. 3. National League of Cities v. Usery, No. 74-878 (June 24, 1976) citing Gibbons v. Ogden, 9 Wheat. (21 U.S.), (1824). Whether Congress in enacting the EAA and other statutes has occupied the entire

field thus preventing the President from exercising any implied residual power depends, in turn, upon determining whether the statutory scheme of regulation is so pervasive as to make unreasonable any other conclusion. (Although the Congress may expressly so provide, it has not done so in any of the mentioned laws.) See, for example, Hines v. Davidowitz, 312 U.S. 52 (1940); Pennsylvania v. Nelson, 350 U.S. 497 (1956). It seems to us that "From the comprehensive pattern of its legislation regulating [export controls] and governing the circumstances under and procedures by which the President is authorized to act to [control exports] it [is] quite likely that Congress has by statute[s] occupied the field." See Consumers Union of U.S. Inc. v. Kissinger, 506 F. 2d at 143. If our surmise in this regard is correct, the President has no residual implied authority to regulate commerce to control exports. In the words of a recent decision in another but not totally unrelated particular: "If the reference in the [aforementioned executive orders] to 'the authority vested in him by the Constitution' was intended to indicate the view that the Constitution vests in the President any power to [control exports], that view was ... in error.' United States v. Yoshida Intern. Inc., 526 F. 2d 560, 572 n. 13 (C C P A 1975) (regarding implied authority "to set tariffs or lay duties or to regulate commerce." Cf. the imposition of a 10% import duty surcharge).

IV

If the President's implied authority does not enable him in the present statutory context to effectively regulate exports when and if the EAA expires, the reasoning in United States v. Yoshida Intern. Inc., supra, suggests that section 5(b) of the TWEA may provide an adequate, if temporary, basis for accomplishing the same result. In Yoshida, the United States Court Court of Customs and Patent Appeals (CCPA) held that notwithstanding the

absence of implied constitutional authority and express authority in the Tariff Act, 19 U.S.C.A. 1303 et seq., or Trade Expansion Act, 19 U.S.C.A. 1801 et seq., section 5(b) empowered the President to impose an import duty surcharge of 10% on all dutiable items. Although the court's conclusions respecting the President's section 5(b) authority understandably are confined to importation, the expansive view taken relative thereto would seem to apply to exportation since, as will be seen hereafter, the law applies both to "importation or exportation." Consequently, in our consideration of Yoshida, the latter term may be read together with or instead of the former.

Section 5(b), 12 U.S.C.A. 95a (also set out as section 5(b) of Title 50 App., War and National Defense), in pertinent part, follows:

> (1) During the time of war or during any other period of national emergency declared by the President, the President may through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, license, or otherwise-
>
> (A) investigate, regulate, or prohibit, any transactions prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coim or bullion, currency. or securities, and
>
> (B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest, by any person, or with respect to any property, subject to the jurisdiction of the limited States ....

For a detailed examination of the legislative history of section 5(b) and its "evolution ... as a result of continuing interplay between the Executive and Congress" see Emergency Power Statutes, S. Rept. No. 93-549. (1973), pp. 184-191.

At the outset of its analysis of section 5(b) the CCPA in Yoshida declared that its "duty" was to effectuate the intent of Congress. Confining itself to the "literal meaning of the words employed," it concluded that "the express delegation in § 5(b) ... is broad indeed."

> It provides that the President may, during "any" period of national emergency declared by him, through "any" agency he designates, or "otherwise," and under "any" rules he prescribes, by means of instructions, licenses, "or otherwise," "regulate," "prevent" or "prohibit" the importation of "any" property in which "any" foreign country or a national thereof has "any" interest, and that the President may, in the manner provided, take "other and further measures," not inconsistent with the statutes, for the "enforcement" of the Act.
>
> The Act authorizes the President to define "any or all" of the terms employed by Congress in §5(b). 50 U.S.C. App. 5(b)(3). 526 F. 2d at 573.

The literal wording compelled the CCPA to the conclusion that it was "incontestable" that section 5(b) "does in fact delegate to the President ... the power to regulate importation. The plain and unambiguous wording of the statute permits no other interpretation" Ibid. Indeed, both logic and reason supported this conclusion since --

> ... the primary implication of an emergency power is that it should be effective to deal with a national emergency successfully. The delegation could not have been otherwise if the President were to have, within constitutional boundaries, the flexibility required to meet problems surrounding a national emergency with the success desired by Congress. Ibid.

In a footnote to its discussion of the power delegated by section 5(b), the court rejected the contention that it was limited to importation of property having an "enemy taint." Id., at n. 17.

The Customs Court's (CC) narrow reading of the law, based on the war - related history of the TWEA and the common law rule against trading with an enemy, was rejected by the CCPA. Conceding the need to

determine the scope and extent of the delegated regulatory power, the CCPA refused to withhold from the President emergency authority to regulate imports by employing tariffs simply because Congress had expressly legislated on the subject. eg. Tariff Act and TEA. Also, the "numerous actions not amenable to 'licensing' " which the President was authorized to take, negated the view that licensing was the sole regulatory device open to him. Id., at 574.

Nor, in the CCPA's view, was there any merit in the contention that section 5(b) empowered the President to permit trade, not to prohibit it. That argument failed on two counts. "The statute itself authorizes the President, during emergencies, to 'regulate ... prevent or prohibit importation.' Secondly, the argument unrealistically by-passes more recent history of the TWEA. The 1933 amendment delegating power to the President for use in response to economic emergencies (indeed, to 'any' national emergency declared by the President, Pike v. United States, 340 F. 2d 487, 489 (9th Cir. 1965)), clearly expanded the purview of the TWEA from that which encompassed only trading with an enemy in time of war to that which also encompassed dealing with 'any' national emergency, including those involving no enemy and no war - related trading." Id., at 575.

The CC also erred in interpreting too narrowly the words "or otherwise." Thus,

> If the phrase "by means of instructions, licenses, or otherwise" defines "the nature and mode of the regulatory authority intended to be delegated to the President," it does so very broadly indeed. The phrase appears to be expansive, not restrictive. The words "or otherwise," if they mean anything, must mean that Congress authorized the use

> of means which, though not identified were different from and additional to, "instructions" and "licenses." Congress by its use of "or otherwise," signalled its intent not to bind the President into "instructions" or "licenses," or into any other prespecified means which might preclude his dealing with a national emergency and defeat the purposes of the legislation. Id., at 576.

Accordingly, the CCPA concluded "that Congress in enacting §5(b) of the TWEA, authorized the President, during an emergency, to exercise the delegated substantive power, i.e., to 'regulate importation,' by imposing an import duty surcharge or by other means appropriately and reasonably related, ... to the particular nature of the emergency declared." Ibid.

The CCPA held that the CC had erred in assuming that the use of section 5(b) to impose a 10% surcharge implied an unlimited breadth of presidential power which "would not only render our trade agreements program nugatory, [but] it would subvert the manifest Congressional intent to maintain control over its Constitutional powers to levy tariffs. "The correct standard by which to judge the challenged exercise, the CCPA said, was to examine it on its particular merits, not how it might be abused in some future circumstance.

> ... presidential actions must be judged in the light of what the President actually did, not in the light of what he could have done. To this we would add, "and not in light of what he might do." Each presidential proclamation or action, under §5(b) must be evaluated on its own facts and circumstances. Id., at 577.

After reviewing the President's proclamation (4074) imposing the 10% surcharge, the CCPA found it to be limited both in terms of objects and time "Far from attempting, therefore, to tear down or supplant the entire tariff scheme of Congress, the President imposed a limited surcharge, as "a temporary measure." ... calculated to help meet a particular national emergency, which is quite different from 'imposing whatever rates he deems desirable.'" Id., at 578.

Reliance by the CC on Youngtown Sheet & Tube Co. v. Sawyer (the Steel Seizure Case), supra, was "misplaced" since the surcharge did not run counter to any explicit legislation. "We know of no act, other than the TWEA, 'providing procedures' for dealing with a national emergency involving a balance of payments problem such as that which existed in 1971." Ibid. Existing statutes regulating imports; viz., the tariff Act of 1930 and its amendments, and the Trade Agreements Act of 1934, and its amendments, and the Trade Expansion Act of 1962, and its amendments, applied to normal conditions an a continuing basis.

> ... The existence of limited authority under certain trade acts does not preclude the execution of other, broader authority under a national emergency powers act. Though 5(b) of the TWEA does overlap the traditional framework of trade legislation, it is not controlling that some of the same considerations are involved. That is to be expected. All deal with foreign commerce Congress has said what may be done with respect to foreseeable events in the Tariff Act, the TEA, and in the Trade Act of 1974 (all of which are in force) and has said what may be done with respect to unforeseeable events in the TWEA. In the latter, Congress necessarily intended a grant of power adequate to deal with national emergencies. It was error below to apply the same approach to determination of intent when Congress is legislating for normal conditions (where the grant is properly narrow) and when Congress is legislating for national emergency conditions (where the grant must be of greater breadth). We find it unreasonable to support that Congress passed the TWEA delegating broad powers to the President for periodic use during national emergencies, while intending that the President, when faced with such an emergency, must follow limiting procedures prescribed in other acts designed for continuing use during normal times." Id., at 578.

The CCPA indicated that the inherent standard by which to judge the exercise of emergency powers is the extent to which action taken is reasonably related to the power delegated and the emergency giving rise to the action. "The nature of the power determines what may be done and the nature

of the emergency restricts the how of its doing. Though courts will not normally review the essentially political questions surrounding the declaration or continuance of a national emergency, they will not hesitate to review the actions taken in response thereto or in reliance thereon. It is one thing for courts to review the judgment of a President that a national emergency exists. It is another for the courts to review his acts arising from that judgment." Id., at 578-579. After a review of the nature of the economic crisis confronting this nation because of its balance of payments problems, the CCPA concluded "that the President's action imposing the surcharge bore an eminently reasonable relationship to the emergency confronted." Id., at 580.

With respect to the constitutionality of the TWEA in light of the foregoing broad reading given to it, the CCPA declared that the surcharge "could not violate any individual's constitutional rights in foreign trade. No one has a vested right to trade with foreign nations. ... And no one has a legal right to the maintenance of an existing rate or duty." Nor [is there any] denial or infringement, even indirectly of any rights arising from any of the Amendments to the Constitution. ..." Ibid.

Also, there was no violation of the concept of separation of powers or its corollary, the delegation doctrine. (i.e. the legislative power of Congress cannot be delegated except under the limitation of a prescribed standard. United States v. Chicago M. St. PER. R.Co., 282 U.S. 311, 324 (1931)). A delegation is proper, the CCPA said, if it laid down an" intelligible principle "under which President was to act. That principle was adhered to in "the express limitations that (1) §5(b) of the TWEA shall be-

come operative only in 'time of war' or 'any other period of national emergency declared by the President' (i.e., a congressional requirement that the President, before acting in peacetime, must find and declare the fact that a national emergency exists), and (2) that the power delegated therein shall be applied only to 'property in which any foreign country or a national thereof has any interest.' " Id., at 580-581.

The uniqueness of each emergency circumstance, the inability to legislate in minute detail in advance with respect to each one, and the need for immediate action to combat it, all conduced to make the delegation in section 5(b) a proper one.

> It cannot be lightly dismissed that the TWEA is operative only during (war or) national emergencies, which inherently preclude prior prescription of specific, detailed guidelines.... Clearly, Congress can be "constitutionally required to appraise beforehand the myriad situations" even less stringently when legislating with respect to the inherently unknown and unknowable problems which may accompany a future national emergency.
>
> The need for prompt action, another essential feature of a national emergency, precludes the otherwise oft-provided requirement for prior hearings, extensive fact finding, Tariff Commission reports to the President, and the like. Emergencies, by definition, require a quick, decisive response. Of the three branches of government, only the Executive has a continuing, spontaneous capacity for mounting such a response. Further, emergencies are expected to be shortlived. Id., at 581-582.

The CCPA concluded its opinion as follows:

> The broad and flexible construction given to § 5(b) by the courts which have considered it is consistent with the intent of Congress and with the broad purposes of the Act. As was said by the Supreme Court in discussing the President's power to define "banking institution" under an earlier version of §5(b): "The power in peace and in war

must be given generous scope to accomplish its purpose" Propper v. Clark, 337 U.S. 472, 481, 69 S.Ct. 1333, 1339, 93 L.Ed. 1480 (1949). Though such a broad grant may be considered unwise, or even dangerous, should it come into the hands of an unscrupulous, rampant President, willing to declare an emergency when none exists, the wisdom of a congressional delegation is not for us to decide. As was said in Norman v. B. & O.R. Co., 294 U.S. 240, 297, 55 S.Ct. 407, 411, 79 L.Ed. 885 (1935), with respect to "gold clause" measures: "We are not concerned with their wisdom. The question before the Court is one of power, not of policy."

Congress, fully familiar with its own use of duties as a means of regulation delegated to the President, in § 5(b) of the TWEA, the power to regulate importation during declared national emergencies by means appropriate to the emergency involved. Interpreted as having authorized the President's imposition of the specific surcharge in Proclamation 4074, as a reasonable response to the particular national emergency declared therein, the delegation in § 5(b) of the TWEA passes constitutional muster.

Accordingly, the President's action under review was within the power constitutionally delegated to him, and the judgment of the Customs Court that said action was ultra vires must be reversed. Id., at 583-584.

V

We have considered Yoshida at length for the obvious purpose of demonstrating the "broad and flexible construction" given to the delegation of authority to the President by section 5(b) of the TWEA. Although rather extraordinary by any standard, the CCPA's reading of the law is within the spirit of prior judicial rulings which have considered it in a variety of contexts. See authorities set out at footnote 16, 526 F. 2d at 573. The fact that that case involved "importation" would not appear to be a meaningful distinction since, as previously noted, the authority delegated by that section also encompasses "exportation." The express delegation in section 5(b) empowers the President, during "any" period of national emergency declared by him, through "any" agency he designates, "or otherwise," and under "any" rules he prescribes, by means of "instructions" "licenses,"

"or otherwise" to "regulate," "prevent" or "prohibit" the exportation of "any" property in which "any" foreign country or a national thereof has "any" interest, and that the President may in the manner provided take "other and further measures," not inconsistent with the statute for the "enforcement" of the Act." The TWEA authorizes the President to define "any or all" of the terms employed by Congress in section 5(b).

The major obstacle in the principal case arose because the means selected by the President to "regulate" importation (i.e., a surcharge) was not expressly mentioned in the list of specified means, and, the employment of such means at first blush seemed to be at variance with laws relating to its closest analog (i.e., tariffs). The specified means include "instructions," "licenses," "or otherwise." The last mentioned phrase was deemed to be "expansive, not restrictive," which is to say, it did not confine presiential action to instructions and licenses or other forms thereof. Briefly the 10% surcharge was a valid implied means authorized by section 5(b) because it was reasonably related to the power delegated and to the emergency giving rise to the action.

> ... it is purpose, not form, which should govern judicial characterization of a charge on imports.... A principal function and necessary effect of the import surcharge in Proclamation 4074 was to regulate imports. Section 5(b) delegates power to "regulate importation." The relationship between the action taken and the power delegated was th us one of substantial identity.
>
> The President's choice of means of its execution must also bear a reasonable relation to the particular emergency confronted. ... The declared national emergency was premised on a prolonged decline in our country's international monetary reserves, the serious threat to our trade position, and our unfavorable balance of payments position. Unlike quotas and other forms of action, a surcharge can obviously be quickly imposed and reviewed, is not discriminatory among nations affected, and is administratively less complex. Through its impact on imports, the surcharge

> imposed by Proclamation 4074 had a direct effect on our nation's balance of trade and, in turn, on its balance of payments deficit and its international monetary reserves. We conclude, therefore, that the President's action in imposing the surcharge bore an eminently reasonable relationship to the emergency confronted. 526 F. 2d at 579-580.

If it is assumed that any gap in export regulation would impart severe consequences to the national welfare -- a determination admittedly beyond our ken--may the President temporarily fill the void as he has undertaken to do on two previous occasions? The CCPA's reading of section 5(b) of the TWEA suggests rather clearly that that question has to be answered in the affirmative. Indeed, in some ways, such action presents far less difficulty than the imposition of a 10% surcharge on imports. As noted, the latter had to be inferred from section 5(b)'s delegation of authority to the President to regulate imports. However, such is not the case with an executive order extending on an emergency basis export controls. Section 5(b) expressly delegates authority to the President, during times of national emergency, to "regulate," "prevent" or "prohibit" exportation by means of "instructions," "licenses" "or otherwise." The principal means used under the EAA and presumedly carried forward under an emergency extension of that Act involves licensure. In brief, such action is not a matter to be inferred and to be judged in terms of its reasonable relationship to the power expressly delegated. It is expressly delegated To paraphrase the CCPA:

> [The] principal function and necessary effect of [such action is] to regulate [exports]. Section 5(b) delegated power to "regulate [exportation[." Id., at 579.

As noted in our discussion of Yoshida, the authority delegated by section 5(b) is not confined to wartime emergencies, but is equally available in economic emergencies. Id., at 575-576.

Section 5(b) also delegates authority to the President to take "other and further measures, "not inconsistent with the statute for the "enforcement" of the TWEA. In addition to effectively extending the EAA's export regulations, this authority would reasonably seem to include extending the administrative framework and procedures used to implement that Act. Although it is not without conceptual problems, such authority may conceivably be applied to effectuate current administrative sanctions, including outstanding denials of export privileges for the duration of the emergency and until such time as Congress acts to fill the statutory void. Whether the last mentioned is valid in all respects depends not only upon the scope of authority delegated by section 5(b) but also upon whether such means are reasonably related to the emergency confronted. However, as the CCPA observed:

> No one has a vested right to trade with foreign nations. Buttfield v. Stranahan, 192 U.S. 470, 24 S.Ct. 349, 48 L.Ed. 525 (1904); Abby Dodge, 223 U.S. 166, 32 S.Ct. 310, 56 L.Ed. 390 (1912); Brolan v. United States, 236 U.S. 216, 35 S.Ct. 285, 59 L.Ed. 544 (1915); Weber v. Freed, 239 U.S. 325, 36 S.Ct. 131, 60 L.Ed. 308 (1915); Board of Trustees v. United States, 289 U.S. 48, 53 S.Ct. 509, 77 L.Ed. 1025 (1933). And no one has a legal right to the maintenance of an existing rate of duty. Norwegian Nitrogen Products Co. v. United States, 288 U.S. 294, 53 S. Ct. 350, 77 L.Ed. 796 (1933). Nor are we faced here with denial or infringement, even indirectly, of any right arising from any of the Amendments to the Constitution as were the courts, for example, in Veterans & Reserv. For Peace In Vietnam v. Regional Com'r, and Teague v. Regional Commissioner of Customs, supra note 18, wherein detention, under § 5(b), of publications sent from North Vietnam was upheld against a claim of violation of First Amendment rights, or in Sardino v. Federal Reserve Bank of New York, supra note 18, wherein blocking of property, under § 5(b), was found not to be a deprivation of property violative of the Fifth Amendment. Id., at 580.

It should be noted, however, that even a privilege may not be arbitrarily denied or taken away, see Elrod v. Burns, No. 74-1520 (June 28, 1976) pp. 6-12 for authorities. On the other hand, "the need for prompt action, another essential feature of a national emergency, precludes the otherwise - oft - provided requirement for prior hearings, extensive fact finding, Tariff Commission reports to the President, and the like. Emergencies, by definition, require a quick decisive response." Id., at 581-582.

What exports can be regulated? In line with what appears to be the CCPA reasoning in Yoshida, all of those items presently regulated under the EAA. 526 F. 2d at 577. Accordingly, present controls on exports, including exports of technical data would be covered during a declared emergency.

The EAA's criminal sanctions and civil penalties are another matter. Although "there is no question that Congress may validly provide a criminal sanction for the violation of rules or regulations which it has empowered the President, or an administrative agency to enact," United States v. Brumage, 377 F. Supp. 144, 150 (E.D.N.Y. 1974), Congress cannot delegate the underlying power to proscribe conduct. The power to determine what acts shall constitute crimes, and, what acts shall not, and to prescribe punishment for acts prohibited belongs to the legislative branch of government. Ex parte United States, 242 U.S. 27, 42 (1916). If and when the EAA expires, the criminal sanctions and civil penalties authorized therein also expire, 50 U.S.C.A. App. 2405. However, the TWEA contains penal provisions (cf. Civil penalties). 50 U.S.C.A. App. 5(b)(3). The two previous executive orders affected a reconciliation between the two measures by specifically limiting the criminal fine which could be imposed

for an export control violation to $10,000, the maximum allowable amount authorized by the TWEA. (Cf. $20,000 under the EAA). The executive orders, however, disregarded the difference in the authorized maximums for imprisonment, presumably because the TWEA's five year maximum includes the EAA maximum (i.e., one year for first time offenders and five years for repeat offenders).

Finally there is some doubt whether the President acting pursuant to section 5(b) of the TWEA may effectively extend the so-called anti-boycott provisions of the EAA. As noted above, section 3(5) of the latter declares it to be national policy "(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, (B) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States, and (C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies." 50 U.S.C.A. App. 2402(5). The Department of Commerce has issued regulations which establish a program intended to implement the anti-boycott policy. 15 C.F.R. part 369. Generally, the regulations require exporting companies and other domestic firms to report any "request for an action, including the furnishing of information or the signing of agreements, that has the effect of furthering or supporting" a boycott. See Forms DIB-621, 621P, 630P. At present, the Secretary of Commerce or his designee utilizes

the threat of civil and penal sanctions authorized by sections 6(a) and (c) of the EAA, 50 U.S.C.A. App. 2405 (a) and (c), to enforce compliance with the reporting requirements.

The anti-boycott provisions fit nicely within the stated purposes of the EAA which, as previously noted, include promotion of United States foreign policy interests. Although some aspects of this policy are likely encompassed by the TWEA, the latter is chiefly a grant of extraordinary power whose exercise is dependent upon a national emergency. However objectionable the factual circumstances that prompted Congress to enact the anti-boycott provisions may be, we are unable to find support in the legislative deliberations associated therewith for the view that offensive restrictive trade practices at issue constituted a national emergency. If it had been considered in such terms, Congress might have opted for pending alternatives barring them altogether rather than limiting itself to a policy declaration. More significantly, an attempted extension by executive action premised on section 5(b) of the TWEA would not accord with the second limiting factor which allowed the CCPA to sustain that provision over objections that it was an unlimited grant of legislative power contrary to Article I, section 1; viz., the exercise of the delegation to be valid must apply only to property in which any foreign country or any national thereof has an interest. Such does not appear to be the case here. Accordingly, any attempt by the President to extend these provisions by virtue of section 5(b) of the TWEA would appear to be lawmaking. As Mr. Justice Black observed for the Court in the Steel Seizure Case, 343 U.S. at 587-588:

> In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his function in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad.

> And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute. The first section of the first article says that "all legislative powers herein granted shall be vested in a Congress of the United States ...."

Briefly, the delegation of authority to the President by section 5(b) of the TWEA would not appear to support, a presidential directive extending the anti-boycott program

Raymond J. Celada
Senior Specialist in
American Public Law
July 15, 1976

APPENDIX 13

LIBRARY OF CONGRESS STUDY CONCERNING WESTERN TECHNOLOGY AND ECONOMIC PERFORMANCE IN THE EASTERN COUNTRIES

INTRODUCTION

The International Relations Committee of the House of Representatives is considering the extension and amendment of the Export Administration Act of 1969 in Hearings during June 1976. Consideration of licensing exports to the Soviet Union, the countries of Eastern Europe, and the People's Republic of China raises questions on the potential of the sale of U.S. technology to the countries in the East. Especially important is the likelihood of use of Western technology to enhance Eastern nation's military capability. In this context, the Soviet Union, as the most capable of our putative adversaries, is of particular interest. In licensing policy we are also concerned with the significance of Western technology for meeting Eastern economic planning goals. This role of Western technology in enhancing Eastern economic performance may be a source of American diplomatic leverage.

The Subcommittee on International Trade and Commerce, chaired by Congressman Jonathan B. Bingham, held Hearings in March focusing in detail on this same topic, export licensing of advanced technology. Congressman Thomas E. Morgan, chairman of the full Committee, requested this background paper for the full Committee Hearings in June. Guidance was provided by George M. Ingram of the full Committee staff, and Roger R. Majak and Victor Johnson of the Subcommittee staff.

OVERVIEW

The Twenty-Fifth Congress of the Communist Party of the Soviet Union met in Moscow in February 1976. The speech of Alexei Kosygin, Chairman of the Council of Ministers and leading economic authority in the Politburo, stressed the critical role of Western technology in improved Soviet economic performance. From this speech and the basic directives for the Tenth Five-Year Plan, we may update Soviet leadership perceptions of the role of Western transfer of technology in Soviet fulfillment of economic plans.[1/]

The perceived positive prospects from increased transfer of Western technology may be appreciated against the backdrop of persistent problems of long- and short-term economic performance. The long-term decline in Soviet economic growth and the continuous low quality of civilian goods output is a matter of concern to Soviet leaders. The short-term effect of poor weather years in 1972 and 1975 in agriculture, the exceptionally large number of uncompleted construction projects and the severe, current hard currency balance of payments problems add an immediate or short-term dimension to the problem. Western technology will not solve Soviet economic problems, but without selective transfer of technology in critical sectors, Soviet economic performance could be considerably worse. As policymakers, the Soviet leaders may see a maximum use of Western technology as one of their more effective variables to favorably influence visible economic outcomes, even in the short run. Western technology transfer may be even more important in the long run. Even though the Party Congress did not discuss the Fifteen-Year Plan (1976-1990), that plan covers a time period of increasing economic concerns to Soviet leaders. Without significant changes, the Soviet

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1/ Pravda, March 7, 1976. December 17, 1975.

economic slowdown in the 1980's may be even more pronounced than the 1970's. Western technology is likewise important to the economies of Eastern Europe and the People's Republic of China (PRC).

Some aspects of the role of Western technology in economic plans of the East are summarized in the points below and elaborated in more detail in the sections that follow:

1. Western technology began to play a major new role in Soviet economic plans in the Eighth Five-Year Plan (1966-1970). The selective strategy of technology transfer was widened to include more sectors in the Ninth (1971-1975) and even more for the current Tenth Five-Year Plan (1976-1980).

2. The selective policy of technology transfer and absorption appears to have a significant aggregative effect on Soviet industrial production, far in excess of the modest value of imported machinery. The favorable aggregative effect of imported technology, may result from an effective combination of foreign imports and increased domestic investment from a modified resource allocation policy.

3. The effective transfer of technology is mainly in the broader systems transfer, involving not only machinery and plants but also training, management, and foreign expertise or know-how.

4. The effective Western technology transfer, demanding domestic investment and the adoption of Western systems, threatens to change the traditional role of the military and the Party. Various accommodations which may permit more extensive civilian use of efficient military administration and changing Party involvement in economic institutions may prove to be acceptable.

5. The rate of importation of technology is limited by the Soviet ability to finance trade in hard currency. Some flexibility and changing of priorities may strengthen exports, improve hard currency earnings from non-trade sources, and enlarge credit prospects. In spite of any likely improvements, balance of payments deficits with Western industrial nations will probably be a major constraining factor on imports of Western technology.

6. Western technology is even more critical to the economic modernization and consumer improvement plans of Eastern Europe. These countries are more flexible in their acceptance of Western commercial norms, but even more constrained by balance of payments difficulties.

7. The People's Republic of China could engage more in East-West commercial relations. Aggressive energy export policy, alone, would relieve most balance of payments problems. The Chinese leaders are, however, the most cautious of the Eastern countries about accepting Western systems, the norms of external relations and other foreign intrusions as a part of the technology transfer from the West needed in their economic plans.

Technology Strategy of Soviet Leadership

The decision after the removal of Khrushchev to contract with FIAT to build a passenger car plant in the Soviet Union, discussed by Alexei Kosygin in a speech to the Gosplan in 1965, was a key point in setting the current leadership's strategy on technology imports from the West. A contract was consummated with FIAT in 1966. The impact of the FIAT contract and related agreements on Soviet foreign trade was felt later as Soviet imports of Western machinery increased sharply. Donald Green and Herbert Levine

quite reasonably place the beginning a new strategy on technology on imports from the West in 1968.[2/]

The decision to import automotive technology was broadened in the formulation of the Ninth-Five Year Plan to include truck technology. As the FIAT arrangement had been the center piece of the Eighth Five-Year Plan, the Kama River Truck Plant development became the major focus of Western machinery importation in the Ninth Five-Year Plan. The selected areas for special attention were widened from automotive technology to include (1) natural gas, oil, timber, metal extraction, processing, and distribution technology; (2) chemical processes ranging from fertilizer to petrochemicals; (3) computer assisted systems technology; (4) agribusiness technology; (5) tourist facility technology.

A key aspect of Soviet import strategy has been to import the most modern technologies available in the West. Soviet importers have proven to be very proficient at searching Western markets and selecting the most advanced industrial processes, machinery and equipment to meet their domestic needs. Recently, a Department of Defense task force recommended that Western export control authorities be more selective in the application of controls on technology exports to the Soviet Union and other socialist countries.[3/]

2/ Green, Donald W. and Herbert S. Levine, "Implications of Technology for the U.S.S.R." Paper presented to NATO Directorate of Economic Affairs Colloquium on "East-West Technological Co-operation," Brussels, March 17-19, 1976.

3/ U. S. Department of Defense. Office of the Director of Defense Research and Engineering. An Analysis of Export Control of U.S. Technology--A D.O.D. Perspective. Washington, February 4, 1976. pp. 9-14.

According to the Defense Department group, the strategic implications of transferring revolutionary technological advances, or "quantum jumps" in the state of the art, should be weighed very carefully. Some items on the Soviet technology shopping list, such as new computer systems, represent revolutionary advances and would presumably be controlled more rigidly by the Defense Department task force.

On the other hand, many Western technologies sought by the Soviets represent only evolutionary advances, or small incremental improvements in technology. Soviet imports of evolutionary advances in technology include automobile designs and tourist facilities. Some technologies, while only evolutionary in terms of Western technological progress, may bring about a significantly greater improvement in Soviet technological capabilities and result in substantial benefits to the Soviet economy. However, such are generally available to the Soviet Union from alternative sources and are difficult to control. The Defense Department task force recommends that transfers of such technologies need not be subjected to rigid controls.

In seeking to expand the importation of foreign technology, whether revolutionary or evolutionary, Soviet decisionmakers appear to be moving toward a foreign economic policy that conforms more closely with the policies of other industrialized countries. Soviet leaders appear to have recognized that the world economy had become technologically very interdependent and that it therefore was time to terminate the policy of denying themselves access to that world market phenomenon. Thus, they seem to have decided to end the Stalinist policy of autarky. This broader

interpretation, most clearly described by Philip Hanson,[4/] is not in conflict with the notion that the leaders selected particular Western streams of technological change for priority. Moreover, a policy of selective interdependence for the current time period, at least through the Tenth Five-Year Plan, seems to be a reasonable forerunner of a broader interrelationship at a later date. This would follow the widening selection of economic sectors to be favored with Western technology in the earlier plans from 1966-1975.

The change of the Soviet system to accommodate a degree of selective interdependence or technological interrelatedness with Western industries required and received direct Politburo support and intervention. This intervention has continuously supported and facilitated Western connections. Chairman of the Council of Ministers, Alexei Kosygin, has been especially identified with the implementation of the strategy, but it doubtless has the support of Leonid Brezhnev and the other members of the Politburo.

Investment Policy and its Implications.

The implementation of a policy of selective technology transfers is apparently motivated by a desire to improve the economic performance in specific sectors (e.g. provide more and better trucks and cars, more and better energy, metals and other material inputs, more and better chemical products, more and better computer applications, more and better food). However, the leadership is probably concerned with the aggregate effects of the inputs of Western machinery. If they prove right in their perception that performance in specific sectors may be improved by Western

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4/ Hanson, Philip, "Diffusion Problems in the USSR." NATO paper.

technology transfer, they may also be correct in their perception that a significant aggregative benefit may be forthcoming. The preliminary analysis of Green and Levine concludes that industrial output would have been 15% less in the period 1968-1973 had the new policy of Western technology transfer not been adopted.

> The model suggests that the growth of industrial production from 1968 to 1973 would have been only 28.4% without those additional imports of Western machinery, i.e., approximately 15% of the growth rate in the control solution (33.7%) would have been foregone. In this version of the model with no compensatory policy shifts, nearly the full impact of this loss in GNP falls upon consumers.5/

Although only a preliminary finding, it does suggest the Soviet leaders were right in their apparent judgment that there were considerable gains from their selective Western technological connections. Moreover, it suggests a rationale for broadening the policy in each successive five-year plan period. Indeed, U. S. exports of machinery and equipment increased from under 50 million in 1970 to 547 million in 1975.6/ In spite of trade problems, orders in hand indicate further increases in future years.

Individual sector or microeconomic studies on chemical fertilizer, coal and oil, and others suggest varying but wide technology gaps between Western and Soviet levels of technology.6a/ To date these studies have not provided quantitative assessments that might help challenge or affirm the macroeconomic findings of the Green-Levine study. However, they do suggest smaller, less significant impacts on Soviet performance from western importations.

5/ Green and Levine, op. cit.

6a/ Hanson, Philip, "The Diffusion of Imported Technology in the USSR"; Campbell, Robert, "Technological Levels in the Soviet Energy Sector." Both papers presented to NATO Directorate of Economic Affairs Colloquium on East-West Technological Co-operation, Brussels, March 17-19, 1976.

6/ East-West Foreign Trade Board Fourth Quarterly Report, referred to Ways and Means Committee March 30, 1976, Appendix D.

The importation of Western technology also has an indirect effect on domestic investment allocation. In each case of selective technology transfer noted above, the imported equipment would provide only part of the needs for expanding output. More domestic investment for equipment not imported, such as infrastructure expansion, and complex expansion of related production, leads to a resource demanding function of imported technology. At the same time, imported machinery and Western technical assistance reduce the requirement for domestic machinery, and domestic research and development expenditures which can then be diverted to other projects, such as military-related output. This resource releasing function tends to offset the resource demanding requirement. The degree to which technology imports are resource demanding or resource releasing is surely quantifiable with further research in both micro and macro-economic terms. The relative sophistication or quality of resources demanded or released would be an important consideration in any attempt to quantify the impact. While no precise measurements are available, an examination of the high-priority sectors for technology imports suggests that the resource demanding function, which is increasing over time, exceeds the resource releasing function.

Several factors support the general conclusion that Soviet technology imports have a net resource demanding effect on the domestic economy. First, the technology transfer process itself consumes domestic, as well as foreign resources. The adaptation and absorption of technology which has been developed for another country requires considerable inputs from the Soviet economy. For example, Soviet engineers are needed to adapt foreign production techniques and product designs to local conditions.

The "Zhiguli" passenger car, produced with the assistance of FIAT and modeled after the FIAT-124, required modifications of 65 percent of its parts in order to perform adequately under Soviet conditions. Additional resources are consumed while managers, technicians, and workers are learning to operate new plants or machinery. During such learning periods, labor and material resources are often wasted, and output is reduced.

A second factor contributing to a large resource demanding function is the high quality requirements for domestic inputs for projects using Western technology. Frequently, the highest quality domestic labor and material resources are needed to insure that imports of advanced technology are effectively exploited. An example is the diversion of experienced construction crews from Moscow projects to work on construction of the Western-assisted Volga and Kama River automotive plants. Likewise, skilled production workers have been recruited from other parts of the Soviet automotive industry. The managers and engineers at the two plants appear to be among the best in the Soviet Union. Finally, the managers of the new automotive projects are making demands for higher quality materials and parts from Soviet industry.

A third factor is the increasingly complex and interrelated structure of the Soviet economy. Often, Western-assisted projects cannot function effectively without massive domestic investment in complementary industries and infrastructure. Foreign technology imports may be likened to the down payment on economic change; subsequent payments must be made by a selective revision in domestic resource allocation priorities. Perhaps the most striking examples are the proposals to utilize Western credits and technology to develop Siberian energy resources. In order to make effective use of foreign

technology, considerable Soviet infrastructure investment would be required, including expenditures for site development, workers' facilities, rail and water transport facilities, refinery capacity, and petrochemical plants. In short, the successful application of imports of Western technology in Siberia must be accompanied by complex development of large regions that are now largely devoid of infrastructure.

The long-term effect of Western technology transfers to the Soviet Union will probably be to strengthen the Soviet economy. At the same time, the net effect of such transfers may be to direct Soviet resource allocations toward those sectors of the economy that are the primary recipients of Western technology. Furthermore, the sophisticated nature of domestic investment requirements for projects using Western technology compete with the defense industries and other high priority sectors.

The Changing Character of Technological Transfer.

A narrowly constrained transfer of technology, such as a one-time purchase of equipment or even turnkey plants followed by a reduction of Western ties, has not proved particularly successful in the target areas of Soviet technology strategy. In a number of cases, the Soviets have established modern industrial plants based on Western technology imports, only to fall behind the rapid pace of technological progress in the west within a few years. The Soviet inability to keep abreast technologically is a result of shortcomings in both their foreign commercial and domestic economic institutions.

A major problem with traditional Soviet foreign trade arrangement is their short-term nature. Soviet industry has not been able to maintain

a continuous exchange of technological experience with foreign producers--the kind of relationship that is common among Western firms. Another problem is the traditional Soviet reluctance to allow large numbers of Western businessmen and technicians to travel to the Soviet Union or to permit Soviet specialists out of the country. Experience in other countries has demonstrated that technology transfer is first and foremost a people exchange. Generally, technological know-how can be transferred effectively only through personal contacts.

The Soviets have also had problems in effectively managing projects involving Western technology. To improve this situation, Soviet planners have shown increasing interest in Western management techniques, such as quality control, scheduling production and marketing skills. However, traditional Soviet technology transfer mechanisms have not provided arrangements for facilitating the absorption of Western management techniques.

The Soviet leadership's awareness of these and other problems have led them to consider more flexible arrangements for importing Western technology. The traditional Soviet approach has been giving way to a modified systems approach to technology transfer. The new approach is characterized by: (1) a long term or continuous connection; (2) complex or project-oriented industrial cooperation; (3) systems related construction production, management and distribution; (4) Western involvement both in country and at home in the training and the decisionmaking process.

7/ Hardt, John and George Holliday, "Technology Transfer and Change in the Soviet Economic System" in forthcoming F. Fleron (editor) Technology and Communist Culture.

The Defense Department study cited above finds similar results to those apparently being perceived by the Soviet planners. The study concludes that more "active" relationships, involving "frequent and specific communications between donor and receiver," are the most effective technology transfer mechanisms. 8/ The active form of transfer required include the following:

1. Turnkey factories
2. Joint ventures
3. Training in high-technology areas
4. Licenses with extensive teaching
5. Technical exchange with ongoing contact
6. Processing equipment with know-how 9/

Although importation of high-technology products and processes are important, the defense group found that "reverse engineering" of products was rarely an effective means of technology transfer. Effective transfer, they argue, requires a broad, continuous transfer of people and ideas rather than just products. This active, ongoing, continuous type of transfer mechanism seems close to what we perceive in the Soviet economy as a modified system approach to transfer, absorption, adaption, and diffusion.

The broader systems approach to Western technology influences not only the purchase of technology but the adaptation and diffusion policy. At a later stage, it may also stimulate the indigenous innovation process. Training, the transfer of management techniques, and information flow may improve the Soviet economy's ability to absorb and effectively utilize Western machinery. To use the metaphor of an organ transplant for Western machinery

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8/ U. S. Department of Defense, op. cit. p. 4.

9/ Ibid., p. 6.

imports, the systems approach changes the pathology and makes the Soviet system receptive to change from a foreign organism or Western technology.

The new approach may also influence the Soviet domestic economic and political system of information and control. While adoption of the modified systems approach to technology transfer may assist in improving efficiency and increasing economic output, it also carries the risk of change in present political and economic institutions. In order to achieve Western levels of efficiency, the Soviet leadership may have to accept increased foreign involvement in the Soviet economy and domestic implementation of Western methods. In other words, the political leaders may be unable to limit the influence of Western technology to selected economic tasks.

Accommodation of the Soviet Economic System to Foreign Technology Systems.

A number of problems must be assessed in appraising the ability of the Soviet system to accommodate and provide a hospitable environment for Western systems: (a) the regional or complex economic problems of development; (b) the role of the military--as an administrative system of comparable domestic technological efficiency to Western systems; (c) the changing role of the Party units at varying levels from the Politburo to the oblast or county level.

Regional or Complex Developments.

A regional or complex development approach to solving Soviet economic problems would involve two kinds of western inputs. First, Western machinery and equipment can be used to improve the productivity

of various industrial activites. Secondly, the use of Western techniques for a systems approach to long-term planning and complex development might be used to improve the overall efficiency of the economy. While the adoption of Western management techniques has been limited to production management at a shop level, some Soviet economists have shown an interest in techniques developed by large Western corporations for long-term planning and control. A systems approach, using some combination of Soviet and Western techniques, appears to be especially attractive in the development of Siberian resources.[10/]

Military Administration.

If the resource demanding function of Soviet imports of Western technology exceeds the resource releasing function, as suggested above, the traditional Soviet high priority investment sectors may be affected. For example, resources needed to complement technology imports may have to be diverted from military programs. If so, the traditional advocates of a high priority for military spending would undoubtedly exercise their considerable political power to impede change. They might readily accept the long-run utility of a more modern energy base, but not at the expense of short-run cuts in key military programs. They might, however, be

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10/ Hardt, J., "Soviet Commercial Relations and Political Change," op. cit., p. 73; cf. J. Hardt, "West Siberia: The Quest for Energy," Problems of Communism, April-May, 1973, pp. 25-36; Ekonomicheskaya gazeta, No. 6 (Feb., 1974), p. 7; V. A. Smirnov, "Gas Industry," EKO (publication of Academy of Sciences -- Novosibirsk) No. 5, September-October, 1975, pp. 45-66. A. Zaklarov, "Organization of the Construction of Large Industrial Complexes," Planovoe Khoziaistvo, No. 10, 1975, pp. 15-22.

partially assuaged by the gains in administrative power over high technology civilian projects offsetting their loss in resource priority. This would be more attractive if leadership policy seemed to give them no better alternative.

Largely because they have occupied a preferred position in terms of resource allocation, Soviet defense industries tend to operate more efficiently than those in the civilian sector. One approach to shifting domestic priorities, while retaining the efficiency of the defense industries, would be to expand the role of military industrial managers to include management of civilian activities. Premier Kosygin noted in 1971 that an increasing share of Soviet consumer goods was being produced in defense plants.[11/] Likewise, the important role of military builders in the construction of civilian projects has long been established.[12/] Military managerial and engineering expertise could presumably be used more widely to improve civilian industries, including Western assisted projects. Such an approach, while it may be considered risky for domestic political reasons, could assist in using new technologies more effectively.

11/ Pravda, April 7, 1971.

12/ Romashro, A. J., Military Builders in the Construction Projects of Moscow, Moscow, Ministry of Defense Press, 1972.

Variations of Party Role in the Economy.

Even more important as an institutional barrier to accommodation of western technological systems into the Soviet economic system is the role of the Party. On the one hand, it is probably essential that the top Party leaders such as Brezhnev and Kosygin intervene on a continuous basis to make western technology transfers effective. On the other hand, it is equally important that the lower level Party and industrial managers committed to traditional methods not be allowed to control or intervene in the transplanted Western systems.

The ongoing reorganization of Soviet industry, including the creation of regional complexes and production associations (concentrations of enterprises producing similar or complementary goods), may facilitate the removal of western-assisted projects from control by traditional ministerial authorities and Party officials. A number of Soviet economists have emphasized the importance of keeping these new economic units outside the traditional administrative system.[13/]

It should be emphasized that the new production organizations do not challenge the roles of the Party and government authorities so much as change them. Some Party and government officials will probably gain, while others lose responsibility and authority. Specifically, central Party and government planning agencies appear to be accumulating greater economic decisionmaking authority at the expense of local Party and ministerial officals. Thus, for example, Lev Vasiliev, general director of the Kama River Truck Association, is reported to have considerable

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13/ Mil'ner, B., "On the Organization of Management," Kommunist, No. 3, February 1975.

independence and authority in making everyday decisions.[14/] At the same time, he appears to be able to circumvent local authorities and gain access to high government and Party officials when approval for important decisions must be obtained.

Appropriate changes in the role of the Party to foster efficiency in economic management, modernization, and effective absorption of Western technology is not a settled issue. There is considerable evidence that the roles of the Central Party and government bureaucracies and local Party organizations is the subject of heated and continuing debate in the Soviet Union.[15/]

Financing Western Technology Transfers.

A major constraint on the Soviet technology imports from the West is their ability to finance them. In most recent years, the Soviet Union has had serious balance of payments deficits in its trade with the West. This situation was temporarily reversed in 1973 and 1974, when the large increase in oil prices enabled the Soviets to expand their hard currency earnings. However, in 1975, the Soviet Union returned to the likely long-term norm of deficits in its hard

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14/ Meyer, Herbert E., "The Plant that Could Change the Shape of Soviet Industry," Fortune, November, 1974, p. 155.

15/ Hardt, J. and T. Frankel, "The Industrial Managers," in H. G. Skilling and F. Griffith, eds., Interest Groups in Soviet Politics, Princeton, 1973. pp. 198-208; Darrell P. Hammer, "Brezhnev and the Communist Party," Soviet Union, Volume II, Part I, 1975, pp. 8-12.

currency accounts.[16/] The Soviets are attempting to solve this problem primarily by expanding their exports to the West, seeking new forms of industrial cooperation with Western firms which include product-payback arrangements, and continuing their heavy use of Western credits.

Each of these measures received attention at the recent 25th Party Congress. Premier Kosygin emphasized the importance of increasing Soviet export earnings, not only from its traditional raw material exports, but also from increased production of industrial products suitable for foreign markets.[17/] Soviet leaders have continually emphasized the importance of "compensation agreements," involving the use of Western credits to import modern machinery and equipment with repayment in resultant output.

Western government credits play a crucial role in Soviet technology import plans. While new U. S. Export-Import Bank credits are now barred, the Soviets have been successful in borrowing heavily from official West European and Japanese financial institutions.

Western Technology and Eastern Europe.

The political imperatives for the East European leaders are (1) meeting minimum Soviet requests; requirements, including Warsaw Pact commitments; (2) increasing real income for their populace, and (3) modernizing their economies--especially to expand exports to the West. In this relationship all economic storm clouds and bad weather appear to come from the East; all

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16/ The Soviet hard currency liabilities with Western banks reached $7.4 billion December 1975, an increase from 3.9 in 1974. The total CMEA liabilities increased by $7.6 billion, from $6.6 in 1974 to 14 billion in 1975. East-West Markets, April 5, 1976, pp. 6, 7.

17/ Pravda, March 7, 1976.

improvements and favorable economic climate conditions are a result of the Western technological connections. Soviet leaders set minimum demands for Warsaw Pact forces and maximum changes in the Eastern systems to accommodate western technology: The sharp rise in Soviet oil and natural gas prices makes it possible for the Soviet economic decisionmakers to abort any Eastern European economic plans. The relative political independence of Romania and Poland from Soviet hegenomy is partly based on their indigenous sources of oil and coal.

The East European needs for rising real income are especially expressed in demands for meat, consumer durables, cars, and housing. Their modernization needs in growth includes chemicals, electronics, machinery, and energy technology. These import needs are similar to the Soviets, but at a smaller scale. The pace of US-USSR commercial relations will influence the ability of East European nations to trade with the West. The institutional umbrella of changing Soviet forms of trading relations will delimit East European policies. They seem inclined to go as much farther than the Soviet Union as the tolerance of their senior partner will permit.

Western Technology in Chinese Plans

The People's Republic of China has equal, if not greater needs, for the technology of the developed West. In oil and gas production and export, in mineral fertilizer output, in iron and steel modernization, in chemical industry development Chinese development will be critically influenced by the transfer of western technology.

Western technology for oil and natural gas output and export may be the critical margin in financing a range of needed imports. Moreover, energy

supplies to Japan may be a significant factor balancing the attraction of Soviet Siberian development to Japanese economic planners. Soviet developments in Siberia are viewed as a threat to Chinese interests. Likewise, western fertilizer plants may provide a critical margin raising Chinese grain production to a new trend line and make their chronic Malthusian, food-population problem manageable.[18/]

Earlier Soviet exports of machinery and plants to China in the 1950's were so significant that without them production would have been at least 20 percent and possible as high as 50 percent less during the First Five-Year Plan (1953-57) --the best period of China's economic performance to date.[19/] Among the unique capabilities attained from this relationship was a Soviet style defense industry in China for all conventional weaponry ranging from rifles to jet aircraft. Although this Soviet adapted technology has become somewhat obsolete, the recent supply arrangements of MIG parts from the PRC to Egypt derived from this earlier technology base.

Still Chinese leaders are very sensitive to the political implications of western technology imports. Mao has often warned that Western imports should be carefully screened or "chewed up" to avoid an intake of Western systems that might cause political "stomach cramps." Formally the Chinese do not accept industrial cooperation ventures or credit arrangements with the West. As rationale for this restrictive import policy, they cite the adverse political aspects of historical technology transfer, e.g. from the Soviets in the 1950's, the Japanese

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18/ Joint Economic Committee, China: A Reassessment of the Economy, GPO, 1975.

19/ Dernberger, Robert F., "Economic Development and Modernization in Contemporary China: The Attempt to Limit Dependence on Transfer of Modern Industrial Technology from Abroad and to Control Its Corruption of the Maoist Social Revolution," forthcoming in F. Fleron (editor), Technology and Communist Cultures.

in the 1930's and the European powers in earlier years. Their historical experience with the United States has been as good as with any of the industrially developed nations. They have also, formally, rebuffed some Western overtures to sell them military equipment. Even if they were removed from an enemy status in U. S. law, it is not clear what arms purchases they would choose to make.

At the same time there is a difference between official rhetoric and actual practice. So-called supplier credits for grain imports for several year terms have been accepted. Some 50 American technicians from Kellogg Company are installing fertilizer plants in China and German and Japanese metallurgists are at the new Wuhan site of a modern iron and steel complex. One does, however, get the impression that a flood of agreements on industrial cooperation and offers of credit-related ventures emanating from Japan are possible any time the leaders in Peking lower their constraints on these western links.

Financing imports is not as difficult for China at a modest level as they receive annual net hard currency income of close to one billion dollars from Hong Kong and Macao. However, they choose to balance all trade bilaterally with each Western trading partner each year, if possible.

Policy Questions for Export Licensing

1. Recent Western technology transfers to the Soviet Union suggest that considerable domestic investment is frequently required to complement imports of technology. At the same time, Western technology imports release some Soviet resources, which can then be diverted to other sectors.

Will the Soviets find imported technology is more resource demanding or more resource releasing? What impact does the importation of Western technology have on the domestic investment allocation of the recipient nation?

2. The resource releasing effect, characteristic to the technology transfer process, does to some extent encourage the military capability of the Soviet Union.

When does technology transfer make a significant contribution to the military potential of the recipient country? What is the acceptable risk when trading high technology to the Soviets? These questions are important when developing an export licensing policy.

3. The mechanism of technology transfer is important to both the exporter and recipient nations.

The most effective form for transfer is the "active" systems transfer, involving people as well as products. Soviet leaders would like to limit this form because it breaches their control and security systems. We would like to control these effective transfers as they may have significant effect on economic performance. Can we develop a general policy in this area considering export risks and gains and relate it to export licensing?

4. Most evolutionary changes in technology may be attained in time with sufficient resources allocated by the recipient country.

Should we limit licensing to only "revolutionary" changes in technology? How should products be controlled for all Eastern countries? Should we discriminate on a country-by-country basis in licensing?

5. The Socialist, non-market, economies of China and Eastern Europe are no longer as firmly directed by the Soviet Union as in the past.

Other Socialist countries have achieved varying degrees of independence from the Soviet Union in the conduct of their foreign political and economic policies. How do we determine whether leakage of Western technology from country to country is likely? Are East European countries automatic conduits of imported Western technology to the USSR?

6. Reciprocal East-West technological interdependence is in question. Our science and technology exchanges are based on an assumption of mutual benefit, i.e., technology transfer in both directions.

Can we relate our export licensing policy to our importation of technology from the socialist economies? Are there other informational benefits we may gain from foreign trade, industrial cooperation and exchanges?

APPENDIX 14

LETTER TO CHAIRMAN MORGAN FROM HON. WILLIAM P. CLEMENTS, JR., IN RESPONSE TO INQUIRES

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., July 8, 1976.

HON. THOMAS E. MORGAN,
Chairman, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to questions by Mr. Bingham and Mr. Findley, I promised to provide the recommendations of the Department of Defense on legislation to implement the report of the Defense Science Board Task Force on the export of U.S. technology.

As I told the Committee in my prepared statement, a series of working groups under Dr. Currie's leadership has already begun the task of reviewing this report. These efforts focus on:

(1) The identification of critical technologies and products;

(2) The assessment of the active mechanisms of technology transfer;

(3) The development of simplified criteria for product control; and

(4) The feasibility and desirability of new administrative procedures or legislation for streamlining the existing export control system.

Although this work is far from complete, I have looked into it to see what could be done to make it more timely in terms of your schedule for considering the Export Administration Act. Given the complexity of the problem, the dependence to a considerable extent of each of the above steps upon completion of the ones preceding it, and the need for extensive interagency consultation and agreement, we still envision that we will not have a good indication of the need for any major administrative changes in the export control process before September. On the other hand, with regard to legislation, we have determined that there is already ample authority in the present law. Accordingly, I can now join with Secretary Richardson in assuring you that no amendments would be required to the Export Administration Act of 1969, as amended, in order to implement the recommendations of the Defense Science Board Task Force's report. However, we may later want to propose certain legislative mandates in order to facilitate any administrative changes that we undertake.

I hope you will find this information helpful.

Sincerely,

W. P. CLEMENTS, Jr.

APPENDIX 15

LETTER TO CHAIRMAN MORGAN FROM GERALD L. PARSKY IN RESPONSE TO INQUIRIES

DEPARTMENT OF THE TREASURY,
Washington, D.C., July 8, 1976.

Hon. THOMAS E. MORGAN.
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: In my letter of June 22, 1976, I indicated that I would forward to you Treasury's comments on the renewal of the Export Administration Act, specifically with regard to the adequacy of the Act's provisions on the control of strategic items. I am happy to provide these comments below.

The Department of the Treasury believes that the existing provisions on the control of strategic items are adequate and the machinery which implements these provisions is effective. We, however, would suggest an increase in the maximum penalties that may be imposed for violations under the Act. In making this recommendation, we support the views expressed by Secretary of Commerce Richardson in his prepared statement before your Committee on June 11, 1976.

The Treasury is in favor of this proposal for the following reasons.

(1) The existing civil and criminal sanctions provided in the Act are inadequate and have not served the purpose of strengthening the objectives of the Act. In transactions involving goods in short supply or in violation of the boycott provision of the Act, the potential profit is so great that the fines at their present levels have not been a meaningful deterrent, since the costs of these fines are so low in relation to potential profit.

(2) Another existing remedy available to the Commerce Department is the actual denial or export privileges, which could have the effect of putting a firm out of business. This penalty is seldom used and indeed drastic for the Commerce Department, which has the dual function of encouraging and regulating exports.

(3) The present proposal seems a proper middle ground between the existing enforcement mechanism which provides for inadequate fines on the one hand, and severe denial orders on the other. An increase in the fines under the Act would, in the view of this Department, enable the Commerce Department to take the profit (or a larger portion of it) out of a transaction and thereby provide added leverage to deter violations.

I hope that these comments will be of help to your Committee. If you believe that we can be of further assistance, please let me know.

Sincerely yours,

GERALD L. PARSKY.

APPENDIX 16

LETTER TO CHAIRMAN MORGAN FROM JAMES F. SEELEY, FEDERAL LEGISLATIVE REPRESENTATIVE OF THE CITY OF LOS ANGELES, SUBMITTING A REPORT OF THE STATE, COUNTY AND FEDERAL AFFAIRS COMMITTEE OF THE LOS ANGELES CITY COUNCIL, RELEVANT TO THE PROPOSED FEDERAL LEGISLATION CONCERNING FOREIGN BOYCOTTS

City of Los Angeles
California

JAMES F. SEELEY
TEL (202) 293 7655
293 7390

1620 EYE STREET N.W.
WASHINGTON D.C. 20006
TELEX NLCOUSCM 89 2547

255 CITY HALL
LOS ANGELES 90012
485 3327

JUN 14 1976

June 11, 1976

The Honorable Thomas Morgan, Chairman
House International Affairs Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Morgan:

In your Committee's deliberation on amendments to the Export Administration Act, I understand that a provision relating to foreign boycotts may be included.

In view of this possibility, I would like to enter in the record a report of the State, County and Federal Affairs Committee of the Los Angeles City Council relevant to the proposed federal legislation in this area of concern.

The full Council adopted the Committee report on April 13 thereby expressing its support for the intent of the Drinan Bill H.R. 5913.

Sincerely,

James F. Seeley

REX E. LAYTON
CITY CLERK

WHEN MAKING INQUIRIES
RELATIVE TO THIS MATTER,
REFER TO FILE NO.

76-250 S-20

CALIFORNIA

TOM BRADLEY
MAYOR

OFFICE OF
CITY CLERK
ROOM 395, CITY HALL
LOS ANGELES, CALIF. 90012
485-5705

April 13, 1976

CITY SUPPORT FOR AB 3080 - ILLEGALITY OF ENTERING INTO CONTRACTS WHICH REQUIRE DISCRIMINATION ON THE BASIS OF BUSINESS ASSOCIATIONS AS WELL AS ON THE BASIS OF SEX, RACE, RELIGION AND NATIONAL ORIGIN

I HEREBY CERTIFY that the attached STATE, COUNTY AND FEDERAL AFFAIRS COMMITTEE report was adopted by the Los Angeles City Council at its meeting held April 13, 1976.

REX E. LAYTON, CITY CLERK

By _____
Deputy

mls
Attachment

File No. 76-250 S.20

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

Your STATE, COUNTY AND FEDERAL AFFAIRS Committee

reports as follows:

Your Committee has considered a possible City position on AB 3080 (Berman, et.al.) and/or any other legislation having a similar effect, which would make it illegal to enter into contracts which require discrimination on the basis of business associations as well as on the basis of sex, race, religion and national origin.

Present law prohibits discrimination on the basis of race, religious creed, color, national origin, ancestry or sex in the pursuit of one's occupation, housing accommodations, training or employment practices and public works employment.

AB 3080 would make it an unlawful restraint on trade for any person, business or governmental agency to enter into any goods or services contract wherein there is a provision requiring discrimination because of a person's business associations or the above mentioned criteria. In addition, the refusal to enter into a contract because the discriminatory provision is missing would be unlawful under the bill.

There is a specific provision in the bill which would make it non-applicable to letters of credit, contracts, or other documents which contain any provision pertaining to a labor dispute or an unfair labor practice.

A violation of AB 3080 if enacted would constitute a crime but punishment is not specified in the bill. If it is a crime, the contract or letter of credit would be void. Sections 16750 et. seq. provide for enforcement of laws to prevent restraint of trade, e.g., civil action with the possibility of treble damages and attorney's fees to be recovered by any person who is injured in his business or property by reason of violation of the law. Further, Section 16755 provides that a person convicted of conspiracy (combinations) in restraint of trade is punishable by a fine of not more than $1 million if a corporation, or $100,000 if an individual, or by imprisonment in a state prison for not more than three years, or by imprisonment for not more than one year in a county jail, or by both such fine and imprisonment. Also under Section 16753 every foreign corporation or association in violation of the law is subject to a prohibition from doing any business in this State.

Assembly Majority Leader Howard Berman, in a letter on file, indicates that the boycott situation created by the Arab League in which a California company is, upon threat of losing a multi-million dollar contract, prohibited from subcontracting with another California company because it does business with a firm on the "blacklist" is not a hypothetical problem. He states that he has copies of contracts with such provisions. He requests Los Angeles City's support of this legislation. He also indicates the need for strong federal action.

There are at least two measures pending in Congress - S 953 (Stevenson, et.al.) and HR 5913 (Drinan).

HR 5913 (Drinan) would, among other things, prohibit discriminatory acts, including the providing of information, by U.S. companies whose purpose is to support or further boycotts or restrictive trade practices imposed by a foreign country (or its citizens) friendly to the U.S. or with persons doing business with those friendly countries. A violation of this proposed bill would result in the revocation of the export license or privileges of the exporter.

S 953 (Stevenson, et.al.) would amend the Export Administration Act of 1969 to require the disclosure of all requests for any kind of action, including informational requests, and intended compliance with those requests which would further foreign boycotts or restrictive trade practices. In addition, U.S. concerns would be prohibited from refusing to do business with another U.S. concern on behalf of any foreign country or agent for the purpose of supporting a boycott against a friendly foreign country or against any domestic concern. Each violation may be subject to a civil penality, not to exceed $10,000 for each violation. On file is a copy of the Congressional Record of March 5, 1975, with Senator Stevenson's introductory comments regarding the intent of S 953 and the problems it is intended to alleviate.

WE THEREFORE RECOMMEND as recommended in a Council motion (Yaroslavsky-Gibson) that the City include in its 1975-76 State Legislative Program to SUPPORT AB 3080 (Berman, et.al.) and/or any other legislation having a similar effect, which would make it illegal in California to enter into contracts which require discrimination on the basis of business associations as well as on the basis of sex, race, religion and national origin;

WE FURTHER RECOMMEND that the City include in its Federal Legislative Program SUPPORT OF S 953 (Stevenson, et. al.) and HR 5913 (Drinan) and/or any other legislation having a similar effect, which would prohibit U.S. concerns from refusing to deal with or discriminating against other U.S. concerns for the purpose of supporting or furthering a foreign boycott against nations friendly to the United States.

APPENDIX 17

LETTER TO CHAIRMAN MORGAN FROM DANA I. ROBINSON, INTERNATIONAL MARKETING CONSULTANT, COMMENTING ON PROPOSED EXTENSION OF THE EXPORT ADMINISTRATION ACT OF 1969

RESTON, VA., *August 6, 1976.*

Hon. THOMAS E. MORGAN,
Chairman, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. MORGAN: With reference to the final hearings to be held next week, I would appreciate the inclusion of the following comments and attached information into the proceedings so that the final work of your Committee may include viewpoints other than those to be presented Tuesday by Mr. Downey for the Administration.

As compared with the repeated Administration statements that no changes were required in the present Act, I think the important revisions of the following sections reflect Industry complaints and were brought out in some manner by the Defense Science Board Task Force:

1. The Administration's interpretation of the "foreign availability" clause in the present Act has placed the burden of proof upon Industry and the license applicant. In your version it now places on the President the burden of proof to determine foreign availability and to specifically justify continuing restriction for national security. Perhaps this will finally require the President to designate Commerce, Defense or C.I.A. to be responsible for Non-Communist foreign technology assessment—something which presently is only available through O.E.A. on a case-by-case basis.

2. The amendments of Section 4(g) and Section 7(c) are directly related because we cannot require the Government to provide Industry with specific information and reasons for denial or delay—without also providing Congress with suitably-protected access to similar information as part of its essential oversight responsibility. If Congress is to play a more active and forceful role in international trade policy formulation—at the insistence of U.S. Business and Industry—it is clear that essential business details must be provided for continuing understanding of the problems.

3. The requirements under Section 7 for a Commerce review of rules/regulations and the special report required under Section 11 from the President quite clearly should be related to the Implementation Plan of the DSB Report and the White House Task Force on Export Controls recently appointed by Mr. MacAvoy. I would disagree with the comments from Rauer Meyer this past Wednesday that such studies and reports would eventually fall upon O.E.A. and that Industry should, therefore, appreciate further delays in the processing of license applications while such studies are being made.

4. Attached is a copy of the report submitted Wednesday by Major Golden and Mr. MacAvoy on the work of the Export Control Task Force. The concern I have and one which perhaps could be monitored by your Committee is that this objective effort will not halt on September 15th with its Final Report and that the need for such an Inter-Agency Task Force (reporting, probably, to OMB) will be essential to implementing whatever technical recommendations come out of the DSB project. Perhaps your Committee staff members can provide Major Golden (normally he is an Economics Professor at West Point) with some of the background details developed during the Sub-Committee and full Committee hearings.

I presume that later this month the final House version of the Act will be prepared and then voted on before the obvious Senate/House Conference can begin the ultimate task of bringing the two versions into some mutually acceptable form for final Congressional action before September 30th. As compared with previous amendments to the Export Control and Export Administration Act, it

is clear to most Industry members that the most comprehensive review and recommendations have come from the House and that the Senate Banking & Currency Committee primarily concerned itself with the Arab Boycott and Securities matters.

Very sincerely,

DANA I. ROBINSON.

OUTLINE OF COMMENTS BY PAUL W. MACAVOY, MEMBER, COUNCIL OF ECONOMIC ADVISERS, BEFORE THE SUBCOMMITTEE ON EXPORT ADMINISTRATION OF THE PRESIDENT'S EXPORT COUNCIL, AUGUST 4, 1976

1. Background and Objectives of the President's Task Force to Improve Export Licensing Procedures.

2. The Review Process and the 1975 Record for an Average Case Referred to the Full Operating Committee.

	Average days in process
Product oriented licensing divisions	67
Policy and planning division	38
Interagency referral and recommendation	46
Commerce license determination	33
COCOM review	40
Average case length	224

3. Internal Commerce Efforts in 1976.

4. Actions by Task Force to Attack Continuing Problem Areas—

Assist in efforts to fill continuing personal vacancies with competent staff.

Set up interagency technical task groups to provide early coordination on cases with difficult technical issues.

Investigate the potential for expanded use of automatic data processing to track cases, generate useful management reports, and produce standard documents.

Review and improve the procedures for documenting and disseminating policy decisions.

Review procedures used by all agencies to pursue agreements to limit interagency referrals to the fullest extent consistent with national security considerations.

Establish procedures to assist in a continuing review of COCOM control lists and to seek administrative exceptions wherever possible.

Review current procedures used to obtain policy level decisions on the most difficult cases and recommend changes, as necessary, to prompt earlier decisions.

5. Focus on Implementing Changes Wherever Possible During the Task Force Study. Final Report in September.

APPENDIX 18

Letter From Hon. Charles M. Walker, Assistant Secretary of the Treasury to Hon. Russell B. Long, Chairman of the Senate Committee on Finance, Dated May 31, 1976

Department of the Treasury,
Washington, D.C., May 12, 1976.

Hon. Russell B. Long,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This is in response to your request for the views of Treasury Department on S. 3138, introduced by Senator Ribicoff on March 15, 1976.

Generally, S. 3138 would impose three types of limitations with respect to taxpayers who participate in the Arab boycott of Israel. The bill would restrict the use of the foreign tax credit and the DISC provisions of the Internal Revenue Code with respect to such taxpayers and also would tax on a current basis the earnings of foreign subsidiaries of such taxpayers.

Specifically, S. 3138 provides that a taxpayer who participates in or cooperates with the Arab boycott of Israel shall not be able to utilize the foreign tax credit with respect to taxes paid or accrued during the taxable year to any country which requires such participation or cooperation as a condition of doing business within that country or with the government, a company, or a national of that country.

S. 3138 also would tax on a current basis the "boycott of Israel income" of a controlled foreign corporation. The term "boycott of Israel income" is defined to mean the income of a controlled foreign corporation, which is determined to have participated in or cooperated with the boycott of Israel, derived from operations in, or related to, any country which requires such participation or cooperation as a condition of doing business within that country or with the government, a company, or national of that country.

Similarly, if a determination is made that a DISC has participated in or cooperated with the boycott of Israel, S. 3138 would deny the use of the DISC benefits of the Internal Revenue Code with respect to a DISC's taxable income from any country which requires such participation or cooperation as a condition of doing business with or within that country.

S. 3138 provides that the determination of whether a taxpayer "participated in or cooperated with the boycott of Israel" for a taxable year shall be made by the Secretary of the Treasury or his delegate. The bill states that a person "participates in or cooperates with the boycott of Israel" if:

(1) he agrees as a condition of doing business within that country or with the government, a company, or a national of that country to (i) refrain from doing business in Israel or with the Government, companies, or nationals of Israel; (ii) refrain from doing business with any U.S. person engaged in trade with Israel or with the Government, companies, or nationals of Israel; or (iii) refrain from doing business with any company whose ownership or management is all or in part Jewish or to remove corporate directors who are Jewish; or

(2) if he agrees, as a condition of the sale of a product to the government, a company, or a national of a country, to ship such products only on a carrier which is not on the boycott of Israel list.

S. 3138 requires any taxpayer with foreign source income for the taxable year, derived directly or indirectly from sources within a country which requires participation in or cooperation with the boycott of Israel as a condition of doing business with or within that country, to report the fact of such income to the Secretary of the Treasury or his delegate.

The Treasury Department opposes this bill for the reasons set forth below.

We believe it is important to view this legislation in the context of the various

important steps that have already been taken to deal with the Arab secondary boycott of Israel. These include 1) prohibitions against compliance with boycott requests that result in discrimination on the basis of race, color, religion, national origin, or sex; 2) the Justice Department antitrust suit against Bechtel for agreeing not to do business with blacklisted U.S. firms; 3) and requirements that all firms report the receipt of and their action on boycott requests to the Department of Commerce on forms stating that it is the policy of the United States to oppose the boycott and urging U.S. firms not to comply with boycott requests.

Passage of S. 3138 would in many cases make investments by U.S. firms in Arab League countries economically untenable. The foreign tax credit, DISC, and tax deferral are important components of our international tax structure. The bill would eliminate these benefits with respect to all income earned in a country which requires participation in or cooperation with the boycott. A company, for example, would lose its entire foreign tax credit for all taxes paid to a country, and would thereby be subject to double taxation on its income from that country, irrespective of the extent of its participation in or cooperation with the boycott. Many companies would simply be unable to invest in or trade with Arab League countries on a profitable basis in these circumstances.

The resulting loss of business and business opportunities would have a serious impact on the U.S. economy. U.S. exports to Arab nations are projected to exceed $10 billion per year by 1980. However, the measures contemplated in S. 3138 would result in a significant reduction in export sales and make such projected export levels unattainable.

It would be particularly unwise for the Congress to take action on tax legislation with so significant an impact on United States companies, employees and investors with so little likelihood of changing the foreign boycott policies of the governments concerned. It is our firm belief that the proposed legislation would not result in the termination or significant lessening of the Arab League secondary boycott of Israel. Various Arab Governments have stated, and we have no reason to doubt the accuracy of these statements, that action by the U.S. Government to prevent U.S. firms from complying with the boycott will not lessen the boycott, but rather will only result in Arab countries turning to alternative sources of supply.

We believe the only effective way to end the boycott is to work towards achievement of a just and lasting peace in the Middle East. We are seeking to create the political and economic conditions in which progress toward that goal would be encouraged. The decline in commercial relations with Arab countries which would be caused by this legislation were it enacted would likely do irreparable damage to our overall position as a mediator in the Middle East, crippling our efforts to achieve a reasonable peace settlement. Even before this economic impact is felt, there is every reason to believe that Arab nations would view passage of S. 3138 as a major shift in our foreign policy in the Middle East. This is particularly so since the bill is aimed explicitly at the Arab secondary boycott of Israel and ignores other present secondary boycotts, as well as others that might be introduced.

S. 3138 illustrates some of the inherent difficulties involved in attempting to solve important international political problems through the Federal tax laws. The bill would impose new and onerous burdens on the Internal Revenue Service. The Internal Revenue Service would be required to make the factual determination of whether a taxpayer "participated in or cooperated with the boycott of Israel." Such determination would be inherently difficult to make in many circumstances; the Internal Revenue Service is simply not equipped to engage in this type of fact-finding process.

S. 3138 would also require difficult tracing and allocation problems to determine the income that was affected by its sanctions. Existing law does not deal with these problems, and S. 3138 fails to provide any guidance from these complicated issues. For example, it is not clear how the bill's sanctions would apply in the case of a U.S. company's foreign subsidiary which participated in the boycott in a year in which it had income from many foreign sources. What portion of the income of the subsidiary, and dividends distributed by the subsidiary to its United States parent, would be tainted as being derived from or related to a boycott country? What expenses should be allocated against such income? Concentration upon such difficult allocations and the fact-finding processes involved in determining boycott cooperation or participation will impair the capacity of the Internal Revenue Service to fulfill its basic role as a collector of tax revenue.

The boycott problem in the final analysis is a problem of foreign policy. By attempting to solve the problem through the strictures of the Internal Revenue Code, the United States would lose the flexibility which is so essential in fashioning solutions to difficult foreign policy questions. It is apparent that the boycott issue can more appropriately be addressed independently of the U.S. tax laws. We see no need and indeed perceive a dangerous precedent in attempting to resolve complicated and delicate questions of foreign policy by use of the Internal Revenue Code.

The Office of Management and Budget has advised the Treasury Department that it has no objection to the presentation of this report and that enactment of S. 3138 would not be in accord with the program of the President.

Sincerely yours,

CHARLES M. WALKER,
Assistant Secretary.

APPENDIX 19

LETTER FROM JAMES A. WILDEROTTER, GENERAL COUNSEL, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION TO CHAIRMAN MORGAN, DATED AUGUST 31, 1976

UNITED STATES
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
WASHINGTON, D.C. 20545

August 31, 1976

Honorable Thomas E. Morgan
Chairman, Committee on International
Relations
U.S. House of Representatives

Dear Mr. Chairman:

As you know, ERDA was unable to comment on the Findley-Zablocki amendment to H.R. 7665 before it was adopted by the House International Relations Committee on August 26.

Nevertheless, we have some suggestions to offer which we believe would make the amendment more effective toward achieving the non-proliferation goals we share with you, and we know you and the Committee would wish to consider them.

We urge that the amendment be reconsidered in the Committee's Tuesday mark-up session and that changes be made in accord with the merits of our views.

The comments provided below also are being sent to Representatives Zablocki, Findley and Broomfield.

Section 15 (a)(1):

The basic Act being amended does not define "nuclear material, equipment, and devices" and it is essential that these terms be defined in order to leave no doubt as to exactly what exports are intended to be regulated by the proposed Amendment. The terminology used should be consistent with the provisions of the Atomic Energy Act of 1954, as amended and the Energy Reorganization Act of 1974.

Section 15 (a)(2):

For purpose of clarity it is suggested that "the Congress finds that the nuclear export activities which enable countries to possess strategically significant quantities of weapons usable and material pose significant

nuclear weapons proliferation risks and should occur only under strict safeguards and control conditions." This change is suggested in order to reflect that the concern and intent of the Amendment is clearly nuclear weapons proliferation and not questions of safety posed by inventories of strategically significant quantities of unirradiated material.

Section 15 (b)(1):

To exempt defense-related nuclear agreements from provisions of this amendment, the following language should be inserted at the beginning of this section:

> "Except for agreements for cooperation arranged pursuant to subsection 91 c, 144 b, or 144 c. of the Atomic Energy Act of 1954, no new agreement . . . . "

Since the U.S. has existing agreements for cooperation which do not contain all of the provisions stipulated by the proposed Amendment, this paragraph should apply only to "new" agreements. Although we realize it is your understanding as well as ours, that the existing language implies that it covers "new" agreements only, we believe it is desirable to state this explicitly in order to avoid possible misunderstanding by others when the legislation is enacted.

Section 15 (b)(1)(B):

As written, this provision may be unenforceable and/or counterproductive in its application. Either the recipient state or the IAEA could refuse to provide the data requested and the former could avoid this condition by turning to another supplier. If retained, this section should be modified to read as follows:

> "the recipient country, group of countries, or international organization, has agreed as provided for in IAEA safeguards implementation documents, to permit the International Atomic Energy Agency to publicly and periodically report [to the United States, upon a request by the United States, on the status of all inventories] summarized national plutonium, uranium 233, and highly enriched uranium inventories possessed by that country, group of countries, or international organization and subject to International Atomic Energy Agency safeguards."

This change is suggested in order to avoid conflict with paragraph 5 of IAEA INFCIRC 153, "The Structure and Content of Agreements Between the Agency and States Required in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons" and also INFCIRC 66, "The Agency's Safeguards System (1965, as Provisionally Extended in 1966 and 1968)," Rev. 2, paragraph 14 (c). Copies of these paragraphs are enclosed herewith.

Section 15 (b)(3)(A), Line 13:

To exempt defense-related nuclear agreements from provisions of this Amendment, the following language should be inserted:

"agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c, 144 b, or 144 c. of the Atomic Energy Act of 1954, as amended), unless the recipient"

Section 15 (b)(3)(A), Line 14:

The words "has agreed" should be changed to "has provided an assurance." This change is suggested because this point in the past has not been covered explicitly by the agreement for cooperation itself. Rather, the U.S. has used diplomatic notes or other exchanges to confirm our understanding that the agreements preclude the use of U.S.-supplied material for any nuclear explosive device. Use of the word "agreed" could be taken to require explicit coverage in the agreement for cooperation itself.

Section 15 (b)(4), Lines 1, 2, 3, 4, 5 and 6:

These lines should be changed to read as follows:

"effectively to such reprocessing if he finds that the safeguards will give reliable detection of any diversion and there will be timely warning to the United States of such diversion."

This change is suggested because to call for "timely warning . . . well in advance of the time at which that party could transform strategic quantities of diverted nuclear material into explosive nuclear devices" implies that diversions are of concern for only one reason. While the fabrication of nuclear explosives is, of course, our primary concern, it should be recognized that a diversion should be notified to the U.S. whenever it occurs, and as soon as possible after it occurs, whether or not the diverting party has the ability to convert it into nuclear explosives. Thus, our preference would be to tie the warning time to the time of diversion, and not to the time of its use in a nuclear explosive device.

Please advise us if we can be of further assistance.

Sincerely,

James A. Wilderotter

James A. Wilderotter
General Counsel

Enclosures:
As stated

B. GENERAL PRINCIPLES OF THE AGENCY'S SAFEGUARDS

The Agency's obligations

9. Bearing in mind Article II of the Statute, the Agency shall implement safeguards in a manner designed to avoid hampering a State's economic or technological development.

10. The safeguards procedures set forth in this document shall be implemented in a manner designed to be consistent with prudent management practices required for the economic and safe conduct of nuclear activities.

11. In no case shall the Agency request a State to stop the construction or operation of any *principal nuclear facility* to which the Agency's safeguards procedures extend, except by explicit decision of the Board

12. The State or States concerned and the Director General shall hold consultations regarding the application of the provisions of the present document.

13. In implementing safeguards, the Agency shall take every precaution to protect commercial and industrial secrets. No member of the Agency's staff shall disclose, except to the Director General and to such other members of the staff as the Director General may authorize to have such information by reason of their official duties in connection with safeguards, any commercial or industrial secret or any other confidential information coming to his knowledge by reason of the implementation of safeguards by the Agency.

14. The Agency shall not publish or communicate to any State, organization or person any information obtained by it in connection with the implementation of safeguards, except that:

(a) Specific information relating to such implementation in a State may be given to the Board and to such Agency staff members as require such knowledge by reason of their official duties in connection with safeguards, but only to the extent necessary for the Agency to fulfil its safeguards responsibilities;

(b) Summarized lists of items being safeguarded by the Agency may be published upon decision of the Board; and

(c) Additional information may be published upon decision of the Board and if all States directly concerned agree.

Principles of implementation

15. The Agency shall implement safeguards in a State if:

(a) The Agency has concluded with the State a *project agreement* under which materials, services, equipment, facilities or information are supplied, and such agreement provides for the application of safeguards; or

(b) The State is a party to a bilateral or multilateral arrangement under which materials, services, equipment, facilities or information are supplied or otherwise transferred, and:
  (i) All the parties to the arrangement have requested the Agency to administer safeguards; and
  (ii) The Agency has concluded the necessary *safeguards agreement* with the State; or

(c) The Agency has been requested by the State to safeguard certain nuclear activities under the latter's jurisdiction, and the Agency has concluded the necessary *safeguards agreement* with the State.

IMPLEMENTATION OF SAFEGUARDS

4. The Agreement should provide that safeguards shall be implemented in a manner designed:

(a) To avoid hampering the economic and technological development of the State or international co-operation in the field of peaceful nuclear activities, including international exchange of *nuclear material* [2];

(b) To avoid undue interference in the State's peaceful nuclear activities, and in particular in the operation of *facilities*; and

(c) To be consistent with prudent management practices required for the economic and safe conduct of nuclear activities.

5. The Agreement should provide that the Agency shall take every precaution to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of the Agreement. The Agency shall not publish or communicate to any State, organization or person any information obtained by it in connection with the implementation of the Agreement, except that specific information relating to such implementation in the State may be given to the Board of Governors and to such Agency staff members as require such knowledge by reason of their official duties in connection with safeguards, but only to the extent necessary for the Agency to fulfil its responsibilities in implementing the Agreement. Summarized information on *nuclear material* being safeguarded by the Agency under the Agreement may be published upon decision of the Board if the States directly concerned agree.

6. The Agreement should provide that in implementing safeguards pursuant thereto the Agency shall take full account of technological developments in the field of safeguards, and shall make every effort to ensure optimum cost-effectiveness and the application of the principle of safeguarding effectively the flow of *nuclear material* subject to safeguards under the Agreement by use of instruments and other techniques at certain *strategic points* to the extent that present or future technology permits. In order to ensure optimum cost-effectiveness, use should be made, for example, of such means as:

(a) Containment as a means of defining *material balance areas* for accounting purposes;

(b) Statistical techniques and random sampling in evaluating the flow of *nuclear material*, and

(c) Concentration of verification procedures on those stages in the nuclear fuel cycle involving the production, processing, use or storage of *nuclear material* from which nuclear weapons or other nuclear explosive devices could readily be made, and minimization of verification procedures in respect of other *nuclear material*, on condition that this does not hamper the Agency in applying safeguards under the Agreement.

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2) Terms in italics have a specialized meaning, which is defined in paragraphs 98—116 below.